



**SIP Revision: 2013-2020 Arizona Cleaner Burning  
Gasoline Program Update and the Removal of the  
Gasoline Set-aside Program from the Arizona SIP.**

*Air Quality Division  
June 17, 2021 Draft*

---

*(This page is intentionally blank.)*

---

## Table of Contents

<b>Table of Contents.....</b>	<b>ii</b>
<b>List of Tables .....</b>	<b>ii</b>
<b>List of Appendices .....</b>	<b>iii</b>
<b>Completeness Criteria (40 CFR Part 51, Appendix V § 2.0) .....</b>	<b>v</b>
Appendix V § 2.1 - Administrative Materials .....	v
Appendix V § 2.3 - Technical Support .....	vi
<b>1 Purpose .....</b>	<b>2</b>
<b>2 Regulatory Background.....</b>	<b>5</b>
<b>3 Cleaner Burning Gasoline Program .....</b>	<b>6</b>
3.1 Background on Arizona Gasoline Programs.....	6
3.2 2013 Update to the CBG Program .....	8
3.3 2014 Update to the CBG Program .....	10
3.4 2015-2016 Update to the CBG Program .....	11
3.5 2017-2018 Update to the CBG Program for the Implementation of Isobutanol.....	14
3.5.1 Statutes Amended .....	14
3.5.2 Rules Amended .....	15
3.5.3 2017-2018 Update to the SIP.....	17
3.5.4 EPA Comments.....	18
3.6 110(l) Demonstration.....	18
<b>4 Arizona Gasoline Set-aside (GSA) Program.....</b>	<b>21</b>
4.1 Background .....	21
4.2 Statutes Repealed .....	22
4.3 110(l) Demonstration.....	23
<b>5 Requested Updates to the Arizona CBG Program .....</b>	<b>25</b>
5.1 Gasoline Emissions from 2011- 2017.....	36
<b>6 The Current Cleaner Burning Gasoline Program .....</b>	<b>38</b>
<b>7 Conclusion .....</b>	<b>42</b>

---

## List of Tables

Table 1. 2013 Update to the CBG Program.....	8
--	---

Table 2. 2014 Update to the CBG Program.....	11
Table 3. 2015-2016 Update to the CBG Program .....	12
Table 4. 2017-2018 Update to the CBG Program .....	17
Table 5. EPA Comments Received .....	18
Table 6. GSA Program Statutes Repealed .....	23
Table 7. Requested Updates .....	25
Table 8. Arizona Gasoline Emissions From 2011-2017 .....	37
Table 9. Arizona Gasoline Emissions Fluctuations From 2011-2017 .....	37
Table 10. The CBG Program After EPA Approval .....	38

---

## List of Appendices

### Appendix A: Procedural Requirements and Authority

- Exhibit A-I: Delegation of Authority
- Exhibit A-II: Authorizing Statutes
- Exhibit A-III: SIP Public Notice and Affidavit of Publication
- Exhibit A-IV: SIP Public Hearing Agenda
- Exhibit A-V: SIP Public Hearing Sign-in Sheet
- Exhibit A- VI: SIP Public Hearing Officer Certification
- Exhibit A-VII: SIP Public Hearing Transcript
- Exhibit A-VIII: Compilation of Comments and State Responses

### Appendix B: Documentation of Program Changes

- Exhibit B-I: Statutes (House Bills, Senate Bills)
- Exhibit B-II: Rules (Notice of Final Rulemaking)

### Appendix C: Statutes and Rules for Approval

- Exhibit C-I: Codified Copies of Final Statutes
- Exhibit C-II: Codified Copies of the Rules

### Appendix D: Previously Submitted Plans

- Exhibit D-I: 2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program SIP revision
- Exhibit D-II: 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program

*(This page is intentionally blank.)*

## **Completeness Criteria (40 CFR Part 51, Appendix V § 2.0)**

### **Appendix V § 2.1 - Administrative Materials**

**(a) A formal signed, stamped, and dated letter of submittal from the Governor or his designee, requesting EPA approval of the plan or revision thereof (hereinafter “the plan”). If electing to submit a paper submission with a copy in electronic version, the submittal letter must verify that the electronic copy provided is an exact duplicate of the paper submission.**

See the cover letter for this SIP submission. See Appendix A, Exhibit A-I for the document delegating authority to Daniel Czecholinski, Director of the ADEQ Air Quality Division, from Misael Cabrera, Director of ADEQ. The document authorizes Mr. Czecholinski to perform any act the Director is authorized to perform under the State’s air quality statutes, including the submission of SIPs to EPA.

**(b) Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereinafter “document”) in final form. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan if different from the adoption/issuance date.**

See the following: the enclosed cover letter; Appendix B, Exhibit B-II and Appendix C, Exhibit C-II for the Notice of Final Rulemaking (NFRM) documents; Appendix B, Exhibit B-I and Appendix C, Exhibit C-I for the updated statutes, including those that repeal SB1200, Arizona’s Gasoline Set-aside (GSA) program.

**(c) Evidence that the State has the necessary legal authority under State law to adopt and implement the plan.** See Appendix A, Exhibit A-II.

**(d) A copy of the actual regulation or document submitted for approval and incorporation by reference into the plan, including an indication of the changes made (such as redline/strikethrough) to the existing approved plan, where applicable. The submission shall include a copy of the official State regulation/document, signed, stamped, and dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of any regulation/document contained in the submission shall, whenever possible, be indicated in the regulation/document itself; otherwise, the State should include a letter signed, stamped, and dated by the appropriate State official indicating the effective date. If the regulation/document provided by the State for approval and incorporation by reference into the plan is a copy of an existing publication, the State submission should, whenever possible, include a copy of the publication cover page and table of contents.**

See Appendix C.

**(e) Evidence that the State followed all of the procedural requirements of the State’s laws and constitution in conducting and completing the adoption/issuance of the plan.** See Appendix A.

**(f) Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.** The Public Process documents for this submission are located in Appendix A.

**(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State’s laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.** See Appendix A for the Public Process documents related to this submission.

**(h) Compilation of public comments and the State's response thereto.** See Appendix A, Exhibit A-VIII, for the State's responses to the public comments received.

## Appendix V § 2.3 - Technical Support

**(a) Identification of all regulated pollutants affected by the plan.** This revision may impact combustion byproducts, specifically those in the forms of carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), sulfuric oxides (SO<sub>2</sub>), volatile organic compounds (VOC), and particulate matter (PM).

**(b) Identification of the locations of affected sources, including the EPA attainment/nonattainment designation of the locations and the status of the attainment plan for the affected areas(s).** ADEQ does not anticipate the CBG program's changes to affect sources, attainment/nonattainment areas. See SIP Revision.

Furthermore, there are no areas or sources within Arizona that will be affected by the Gasoline Set-aside program's repeal. See section 4 of this submission.

**(c) Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.** Not applicable for the current submission.

**(d) The State's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented. For all requests to re-designate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act.**

Since Isobutanol is an EPA approved oxygenate it should not interfere with any requirements concerning attainment and reasonable further progress (as defined in 42 U.S.C. § 7501). See section 3.6.

**(e) Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, a justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.** Not applicable.

**(f) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.** Not applicable.

**(g) Evidence that the plan contains emission limitations, work practice standards, and record-keeping/reporting requirements, where necessary, to ensure emission levels.** Not applicable for current submission.

**(h) Compliance/enforcement strategies, including how compliance will be determined in practice.**

The Weights and Measures Services Division (WMSD) of the Arizona Department of Agriculture is authorized to inspect various measuring devices across Arizona under A.R.S. Title 3, Chapter 19. For that reason, the WMSD inspectors will employ procedural guidelines created by the National Conference on Weights and Measures and ASTM International standards to ensure compliance. These WMSD inspectors have the authority to audit fuel quality to confirm compliance with federal and state standards. These audits occur through scheduled or unannounced inspections conducted throughout the fuel system chain, including refineries, pipeline, terminals, and service stations. The WMSD inspector conducts a screening fuel quality analysis to determine whether proper octane and ethanol levels are in use.<sup>1</sup> Additionally, fuel samples are collected for analysis by contracted laboratories to verify compliance with CBG and ASTM fuel parameter standards.

**(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.**

Not applicable for current submission.

---

<sup>1</sup> Ariz. Dept. of Weights and Measures Services Div., About Us, <https://agriculture.az.gov/about-us/divisions/weights-measures-services-division> (last visited Dec. 28, 2020).



*(This page is intentionally blank)*

---

# 1 Purpose

This State Implementation Plan (SIP) revision was prepared by the Arizona Department of Environmental Quality (ADEQ) in consultation with Arizona Department of Agriculture, Weights and Measures Services Division (WMSD) and the Arizona Department of Transportation (ADOT) to submit to the United States Environmental Protection Agency (EPA). This submission is requesting the following SIP approved WMSD statutes and rules to be contingently removed from the Arizona SIP upon EPA's approval of the new sections submitted to replace them:

## ADOT Statutes Repealed by Senate Bill 1200

- A.R.S. § 28-2701 (Definitions)
- A.R.S. § 28-2702 (Department Survey of Availability of Unblended Gasoline)
- A.R.S. § 28-2703 (Determination of Shortage: Declaration)
- A.R.S. § 28-2704 (State Set-aside Volume)
- A.R.S. § 28-2705 (Assignment of Set-aside)
- A.R.S. § 28-2706 (Price)
- A.R.S. § 28-2707 (Application)
- A.R.S. § 28-2708 (Appeals)

## WMSD Revisions

- A.R.S. § 41-2051 (6), (10)- (12), and (13) (Definitions—"Certification," "Department," "Diesel fuel," "Director," and "E85")
- A.R.S. § 41-2065 (Powers and Duties)
- A.R.S. § 41-2066 (Enforcement powers of the director and inspectors- Two versions)
- A.R.S. § 41-2083 (Standards for liquid fuels; exceptions)
- A.R.S. § 41-2113(B)(4) (Violation; classification; jurisdiction)
- A.R.S. § 41-2115 (Civil Penalties)
- A.R.S. § 41-2121 (Definitions)
- A.R.S. § 41-2121(5) (Definitions ["Gasoline"])
- A.R.S. § 41-2122 (Standards for oxygenated fuel; volatility exceptions)
- A.R.S. § 41-2123 (Area A; sale of gasoline; oxygen content)
- A.R.S. § 41-2124 (Area A; fuel formulation; rules)
- A.R.S. § 41-2125 (Area B; sale of gasoline; oxygen content)
- A.A.C. R20-2-101 (Definitions- Administration and Procedures)
- A.A.C. R20-2-701 (Definitions- Motor Fuels and Petroleum Products)
- A.A.C. R20-2-716 (Sampling and Access to Records)
- A.A.C. R20-2-750 (Registration Relating to Arizona CBG or AZRBOB)
- A.A.C. R20-2-751 (Arizona CBG Requirements)
- A.A.C. R20-2-752 (General Requirements for Registered Suppliers)
- A.A.C. R20-2-753 (General Requirements for Pipelines and 3rd-party Terminals)
- A.A.C. R20-2-754 (Downstream Blending Exceptions for Transmix)
- A.A.C. R20-2-755 (Additional Requirements for AZRBOB and Downstream Oxygenate Blending)
- A.A.C. R20-2-756 (Downstream Blending of Arizona CBG with Non-oxygenate Blendstocks)

- A.A.C. R20-2-757 (Product Transfer Documentation; Records; Retention)
- A.A.C. R20-2-758 (Adoption of Fuel Certification Models)
- A.A.C. R20-2-759 (Testing Methodologies)
- A.A.C. R20-2-760 (Compliance Surveys)
- A.A.C. R20-2-761 (Liability for Noncompliant Arizona CBG or AZRBOB)
- A.A.C. R20-2-762 (Penalties)
- A.A.C. Title 20, Chapter 2, Article 7, Table 1, (Type 1 Gasoline Standards)
- A.A.C. Title 20, Chapter 2, Article 7, Table 2, (Type 2 Gasoline Standards)

Concurrently, ADEQ submits to EPA a request to approve the following WMSD statutes and rules into the Arizona SIP:

- A.R.S. § 3-3401 (Definitions) as revised and adopted on July 1, 2016.
- A.R.S. § 3-3414 (Powers and Duties) as revised and adopted on August 3, 2018.
- A.R.S. § 3-3415 (Enforcement powers of the associate director, agents, and inspectors) as revised and adopted on July 1, 2016.
- A.R.S. § 3-3433 (Standards for motor fuel; exceptions) as revised and adopted on July 1, 2016.
- A.R.S. § 3-3473 (Violations; classification; jurisdiction) as revised and adopted on July 1, 2016.
- A.R.S. § 3-3475 (Civil Penalties) as revised and adopted on July 1, 2016.
- A.R.S. § 3-3491. (Standards for oxygenated fuel; volatility; exceptions) as revised and adopted on August 9, 2017.
- A.R.S. § 3-3493 (Area A; fuel reformulation; rules) as revised and adopted on August 9, 2017.
- A.R.S. § 3-3495 (Area B; sale of gasoline; oxygen content) as revised and adopted on August 6, 2016.
- A.A.C. R3-7-101 (Definitions- Administration and Procedure) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-701 (Definitions- Motor Fuels and Petroleum Products) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-716 (Sampling and Access to Records) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-750 (Registration Relating to Arizona CBG or AZRBOB) as revised and adopted on October 2, 2017.
- A.A.C. R3-7-751 (Arizona CBG Requirements) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-752 (General Requirements for Registered Suppliers) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-753 (General Requirements for Pipelines and Third-party Terminals) as revised and adopted on October 2, 2017.
- A.A.C. R3-7-755 (Additional Requirements for AZRBOB and Downstream Oxygenate Blending) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-756 (Downstream Blending of Arizona CBG with Non-oxygenate Blendstocks) as revised and adopted on October 2, 2017.
- A.A.C. R3-7-757 (Product Transfer Documentation; Records; Retention) as revised and adopted on November 10, 2018.
- A.A.C. R3-7-759 (Testing Methodologies) as revised and adopted November 10, 2018.
- A.A.C. R3-7-760 (Compliance Surveys) as revised and adopted on October 2, 2017.

- A.A.C. R3-7-761 (Liability for Noncompliant Arizona CBG or AZRBOB) as revised and adopted on October 2, 2017.
- A.A.C. Title 3, Chapter 7, Article 7, Table 1, (Type 1 Arizona CBG Standards) as revised and adopted on November 10, 2018.
- A.A.C. Title 3, Chapter 7, Article 7, Table 2, (Type 2 Arizona CBG Standards) as revised and adopted on November 10, 2018.

The WMSD statutes and regulations that ADEQ is requesting to be approved into the Arizona SIP have been implemented statewide since 2013 and are either as stringent as or more stringent than the current SIP-approved WMSD statutes and regulations. Furthermore, repealing the ADOT GSA program statutes from Arizona SIP will not interfere with non-attainment area's attainment or reasonable further progress. ADEQ will demonstrate in this submission that the proposed changes will not negatively interfere with the state's air quality.

## 2 Regulatory Background

The Clean Air Act (CAA) establishes national fuel emissions standards and allows states to adopt unique fuel programs to meet specific air quality requirements. The state fuel programs, if approved by EPA into the SIP, can establish requirements more stringent than the federal standards if it is demonstrated the standards are necessary to meet the State's air quality needs. Once approved in a SIP, Section 110(l) of the Clean Air Act (CAA) requires all states to submit SIP revisions that should not interfere with any applicable requirement concerning the attainment, reasonable further progress, or any other CAA requirement. While there are CAA requirements affected by this submission, ADEQ and WMSD have substituted the removed statutes and rules with measures equivalent to or better, thereby ensuring that backsliding will not occur should the rules and statutes included in this SIP revision be implemented or repealed. This SIP revision was prompted by the passage of House Bill (HB)2368 in 2017 by the Arizona Legislature; however, ADEQ and ADA began the process of amending the Cleaner Burning Gasoline (CBG) program long before the bill was drafted.

In 2013, Arizona submitted a revision of the State's CBG Program to EPA, with subsequent supplement containing technical corrections in 2014. After reviewing the 2013/2014 Revisions, EPA notified ADEQ and WMSD that specific regulatory changes to allow the use of oxygenates other than ethanol needed to be made before the EPA would act on the submission. In May 2017, the Arizona Legislature introduced HB2368 allowing the use of isobutanol as a gasoline oxygenate. The final rules were passed September 28, 2018 to address EPA comments and HB 2368.

Section 3 of this submission will discuss the following updates to the Arizona SIP, including those that will allow the use of isobutanol: 1) the background on Arizona Gasoline Programs; 2) 2013 CBG Program Update; 3) 2014 CBG Program Update; 4) 2015-2016 Update to the CBG Program; 5) the 2017-2018 Update to the CBG Program for the Implementation of Isobutanol; and 6) the 110(l) demonstration required by the CAA.

This SIP revision will also remove the Arizona Department of Transportation's (ADOT) 1989 Gasoline Set-aside (GSA) Program from the Arizona SIP. The set-aside program authorized under Arizona Revised Statutes (A.R.S.) §§ 28-2701 through 28-2708 has never been employed during a fuel shortage. The GSA program was repealed by Senate Bill (SB) 1200 and prompted ADEQ to remove the now outdated ADOT legislation from the Arizona SIP. Section 4 of this submission will discuss the following elements about the removal of the GSA program from the Arizona SIP: 1) the background of the program; 2) the statutes repealed; and 3) the 110(l) demonstration required by the CAA.

### 3 Cleaner Burning Gasoline Program

This section covers: 1) the background on Arizona Gasoline Programs; 2) 2013 Update to the CBG Program; 3) 2014 Update to the CBG Program; 4) 2015-2016 Update to the CBG Program; 5) the 2017-2018 Update to the CBG Program for the Implementation of Isobutanol; and 6) the required CAA § 110(l) demonstration.

#### 3.1 Background on Arizona Gasoline Programs

The Arizona CBG Program includes gasoline related standards and control measures required by the CAA to reduce pollution from mobile sources in areas across the state. Various elements of the CBG Program have been updated over the years to reduce ozone, particulate matter (PM<sub>10</sub>), and carbon monoxide (CO) emissions in the greater Phoenix metropolitan area (i.e., Area A), since tailpipe emissions associated with vehicular travel are contributing factors in nonattainment areas for all three pollutants. The introduction of gasoline controls is one of many control measures adopted by federal, state, and local governments to reduce pollution and improve public health. The Maricopa County ozone nonattainment and CO maintenance areas, include large portions of Maricopa County. The PM<sub>10</sub> nonattainment area also encompasses a large portion of Maricopa County and an additional area in Pinal County. Collectively, under ARS § 49-541(1)(a), (b), and (c), the CO maintenance area, and ozone and PM<sub>10</sub> nonattainment areas are covered in part by the planning area called “area A.”<sup>2</sup> The Arizona CBG Program acts as a control measure that applies to gasoline sold in Maricopa County and any portion of a county within “area A,” collectively referred to as the “CBG-covered area.” The CBG program is divided into two central elements: 1) a summer cleaner-burning fuel blend with a low Reid Vapor Pressure (RVP) and 2) a wintertime clean-burning fuel blend with a minimum oxygenate requirement.<sup>3</sup> The winter CBG program also requires gasoline blends to meet the California Air Resources Board (CARB) Phase 2 reformulated gasoline standards.<sup>4</sup>

In the summer months, the CBG Program allows refiners to meet either the winter CARB Phase 2 requirements or meet specific performance standards for reductions in volatile organic compound (VOC) and nitrogen oxides (NOx) emissions - patterned after the Federal Phase 2 reformulated gasoline program. Both the CARB Phase 2 and Federal Phase 2 reformulated gasoline programs require gasoline formulations that provide air quality benefits. In Arizona, the summer fuel blend requirements help areas reduce precursor emissions that contribute to ozone and PM<sub>10</sub> concentrations, while the wintertime fuel blend aids in the reduction of CO and PM<sub>10</sub> emissions. The Arizona CBG Program was initiated by a letter sent by Arizona’s then-Governor Symington to EPA on January 17, 1997. The letter asked EPA to allow the Maricopa County Ozone Nonattainment Area to opt-in to the Federal Reformulated Gasoline (RFG) Program under section §211(K)(6) of the CAA and to allow the State to establish a low summertime Reid Vapor Pressure (RVP) requirement, of 7.0 pounds per square inch (psi) for gasoline sold in the area.<sup>5</sup> EPA granted Arizona’s request and allowed the area to opt-in to the

<sup>2</sup> The current boundaries of Area A were established by Laws 2001, Ch. 371, §8.

<sup>3</sup> More information on gasoline volatility and Reid Vapor Pressure can be found at <http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/index.htm>

<sup>4</sup> CARB Phase 2 gasoline includes a specific set of standards for sulfur, aromatics, olefins, and distillation, which combined produce emission reductions of CO, VOCs, NOx, and PM<sub>10</sub>.

<sup>5</sup> A detailed history of fuel related regulatory requirements prior to the implementation of Arizona’s CBG program is available in the EPA August 2003 “Technical Support Document for Notice of Proposed Rulemaking on Arizona State Implementation Plan (SIP) Arizona Cleaner Burning Gasoline SIP Revisions,” available at <https://www3.epa.gov/region9/air/az/vehicles/pdf/tsd092003.pdf> (last visited 12/28/2020)

federal RFG program on June 3, 1997 via the *Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area*. Then again on June 11, 1997 by way of the *Approval and Promulgation of State Implementation Plans; Arizona- Maricopa County Ozone Nonattainment Area*.<sup>6</sup>

After Arizona opted-into the federal RFG program, WMSD, in coordination with ADEQ, developed a gasoline program tailored explicitly to Arizona. This program was adopted and submitted to EPA for consideration on September 15, 1997, as the Interim CBG Rule.<sup>7</sup> The submission included a request to allow the CBG Program to be adopted as a control measure for both the Maricopa County ozone and PM<sub>10</sub> nonattainment areas.<sup>8</sup> Around the time the Interim CBG Rule was submitted to EPA, Arizona requested to opt-out of the federal RFG program.<sup>9</sup> On February 10, 1998, EPA approved by final rule the establishment of the Arizona CBG Program and approved the Interim CBG Rule into the Arizona SIP as a control measure for the Maricopa County ozone and PM<sub>10</sub> nonattainment areas.<sup>10</sup> Following the Interim CBG Rule's approval, on August 11, 1998, EPA approved Arizona's request to opt-out of the federal RFG program.<sup>11</sup>

After the Arizona Interim CBG Rule's approval, WMSD and ADEQ began developing a permanent CBG Program, superseding the interim rule. The CBG rules were submitted in a series of four SIP submittals from February 1999 to September 2001 and updated the CBG program to include the Maricopa County ozone and PM<sub>10</sub> nonattainment areas; it also incorporated the winter fuel regulations applicable to the Maricopa County CO planning area.<sup>12</sup> EPA reviewed the four Arizona SIP submittals and, on March 4, 2004, approved the updates into the Arizona SIP.<sup>13</sup> This approval included replacing the CBG Interim Rule with permanent rules, an update of permissible gasoline supply types for the winter season, and removing the minimum summertime oxygen requirement.<sup>14</sup>

Arizona amended the CBG program again in 2006 and submitted the revisions to EPA on September 28, 2007 in the *Revision to the State of Arizona's Cleaner Burning Gasoline (CBG) State Implementation Plan (SIP)*.<sup>15</sup> Arizona withdrew the updated CBG program from EPA's consideration on July 3, 2008 after being informed by EPA that the SIP submittal would be disapproved because of an increase in PM<sub>10</sub> emissions that would interfere with the attainment of the PM<sub>10</sub> standards in the Maricopa County nonattainment area.<sup>16</sup> In 2011, WMSD revised the state CBG rules to reflect current industry testing methods, practices,

---

<sup>6</sup> Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area, 62 Fed. Reg. 30260 (Jun. 3, 1997); Approval and Promulgation of State Implementation Plans; Arizona- Maricopa County Ozone Nonattainment Area, 62 Fed. Reg. 31734 (Jun. 11, 1997)

<sup>7</sup> Technical Support Document for Notice of Proposed Rulemaking on Arizona State Implementation Plan (SIP) Arizona Cleaner Burning Gasoline SIP Revisions," (2003) available at <https://www3.epa.gov/region9/air/az/vehicles/pdf/tsd092003.pdf> (last visited 12/28/2020).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 63 Fed. Reg. 6653 (Feb. 10 1998)

<sup>11</sup> 63 Fed. Reg. 43046 (Aug. 11, 1998)

<sup>12</sup> 1999 Arizona Cleaner Burning Gasoline State Implementation Plan Revision; 2001 Arizona Cleaner Burning Gasoline State Implementation Plan Revision (August); 2001 Arizona Cleaner Burning Gasoline State Implementation Plan Revision (March); 2002 Arizona Cleaner Burning Gasoline State Implementation Plan Revision.

<sup>13</sup> 69 Fed. Reg. 10160, 10161 (Mar. 4, 2004)

<sup>14</sup> *Id.*

<sup>15</sup> Withdrawal of September 28, 2007, Revision to Arizona's Cleaner Burning Gasoline State Implementation Plan, Letter to Wayne Nastri, Regional Administrator of EPA Region 9, from Stephen Owens, Director of Ariz. Dept. of Env'tl Quality, (July 3, 2008)

<sup>16</sup> *Id.*

and efficiencies suitable for Arizona’s environment and industry. These updates were included in the 2013 CBG SIP revision.

## 3.2 2013 Update to the CBG Program

In 2013, Arizona submitted a SIP revision to EPA to include statutory and rulemaking efforts that had occurred between 2004 and 2011. Table 1 (*infra*) is a regulatory crosswalk that illustrates the CBG statutes and regulations amended by the *2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program SIP revision* (2013 CBG SIP Revision).<sup>17</sup> For clarity, a column has been added to include the current regulatory citations following renumbering that occurred in 2016 after the transfer of the Department of Weights and Measures to the Department of Agriculture. While some of the 2013 updates went into effect at the State level after the State’s final rulemaking on November 30, 2013, the updates were not approved by EPA and are therefore not in effect at the federal level. Additionally, several important updates that allow the use of a model in lieu of sample analysis and updated gasoline testing methods await implementation at the state level pending EPA SIP approval. The EPA comments on the 2013 CBG SIP revision included recommendations for WMSD to make additional changes to the CBG program before the EPA approved or disapproved the 2013 CBG SIP Revision and associated 2014 supplement.<sup>18</sup> WMSD made the changes recommended by EPA, and those recommendations have been incorporated into this submission.

**Table 1. 2013 Update to the CBG Program**

<i>2013 Update to the CBG Program</i>		
<i>Statute/ Rule Amended</i>	<i>2016 Department of Agriculture Recodification*</i>	<i>Codification Date</i>
<i>Statutory Elements</i>		
A.R.S. § 41-2124 Area A; Fuel Reformulation; Rules	A.R.S. § 3-3493 Area A; Fuel Reformulation; Rules	Laws 2005, Ch. 104, § 3 (April 18, 2005).
A.R.S. § 41-2115 Civil Penalties	A.R.S. § 3-3475 Civil Penalties; Hearing	Laws 2008, Ch. 291, § 5 (June 27, 2008)
<i>Rule Elements</i>		
A.A.C. R20-2-701 Definitions (Motor Fuels and Petroleum Products)	A.A.C. R3-7-701 Definitions (Motor Fuels and Petroleum Products)	17 A.A.R. 190, March 12, 2011
**A.A.C. R20-2-702 (A)(3), (A)(8) – (11) Materials Incorporated by Reference	A.A.C. R3-7-702 Materials Incorporated by Reference	17 A.A.R. 190, March 12, 2011
**A.A.C. R20-2-708(B) Gasoline Ethanol Blends	A.A.C. R3-7-708 Gasoline Oxygenate Blends <sup>19</sup>	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-716 Sampling and Access to Records	A.A.C. R3-7-716 Sampling and Access to Records	12 A.A.R. 3722, September 12, 2006

<sup>17</sup> This submission is requesting the 2013 SIP Revision be withdrawn from EPA consideration.

<sup>18</sup> 19 A.A.R. 3325, effective November 30, 2013.

<sup>19</sup> The title of this rule was changed to “Gasoline Oxygenate Blends” on 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).



<b>2013 Update to the CBG Program</b>		
<i>Statute/ Rule Amended</i>	<i>2016 Department of Agriculture Recodification*</i>	<i>Codification Date</i>
<b>**A.A.C. R20-2-749</b> Definitions Applicable to Arizona CBG and AZRBOB <sup>20</sup>	A.A.C. R3-7-749 Definitions Applicable to Arizona CBG and AZRBOB	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-750 Registration Relating to AZ CBG or AZRBOB	A.A.C. R3-7-750 Registration Relating to AZ CBG or AZRBOB	12 A.A.R. 3722, September 12, 2006
A.A.C. R20-2-751 Arizona CBG Requirements	A.A.C. R3-7-751 Arizona CBG Requirements	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-752 General Requirements for Registered Suppliers	A.A.C. R3-7-752 General Requirements for Registered Suppliers	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-753 General Requirements for Pipelines and Third-Party Terminals	A.A.C. R3-7-753 General Requirements for Pipelines and Third-Party Terminals	12 A.A.R. 3722, September 12, 2006
A.A.C. R20-2-754 Downstream Blending Exceptions for Transmix	A.A.C. R3-7-754 Downstream Blending Exceptions for Transmix	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-755 Additional Requirements for AZRBOB and Downstream Oxygenate Blending	A.A.C. R3-7-755 Additional Requirements for AZRBOB and Downstream Oxygenate Blending	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-756 Downstream Blending of AZ CBG with Nonoxygenate Blendstocks	A.A.C. R3-7-756 Downstream Blending of AZ CBG with Nonoxygenate Blendstocks	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-757 Product Transfer Documentation; Records Retention	A.A.C. R3-7-757 Product Transfer Documentation; Records Retention	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-758 Adoption of Fuel Certification Models (Removed)	Removed	12 A.A.R. 3722, September 12, 2006
A.A.C. R20-2-760 Compliance Surveys	A.A.C. R3-7-760 Compliance Surveys	17 A.A.R. 190, March 12, 2011
A.A.C. R20-2-759 Testing Methodologies	A.A.C. R3-7-759 Testing Methodologies	17 A.A.R. 190, March 12, 2011
A.A.C. Title 20, Chapter 2, Article 7, Table 1, Type 1 Gasoline Standards	A.A.C. Title 3, Chapter 7, Article 7, Table 1, Type 1 Arizona CBG Standards	17 A.A.R. 190, March 12, 2011

<sup>20</sup> AZRBOB stands for Arizona Reformulated Blend-stock for Oxygenate Blending. It is not a complete gasoline blend until the specified oxygenate is added.

2013 Update to the CBG Program		
Statute/ Rule Amended	2016 Department of Agriculture Recodification*	Codification Date
A.A.C. Title 20, Chapter 2, Article 7, Table 2, Type 2 Gasoline Standards	A.A.C. Title 3, Chapter 7, Article 7, Table 2, Type 2 Arizona CBG Standards	17 A.A.R. 190, March 12, 2011
*The 2016 Department of Agriculture recodification column is for reference only. The Department of Weights and Measures was transferred the Department of Agriculture in 2016. As a result, the Weights and Measures rules are no longer located under Title 20, Section 2, but Title 3, Section 7 of the A.A.C.		

### 3.3 2014 Update to the CBG Program

The 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program (2014 CBG SIP Revision) incorporated technical corrections made by WMSD to the Arizona Administrative Code (A.A.C.) and was submitted to EPA as a supplement to the 2013 CBG SIP Revision.<sup>21</sup> This rule was published on October 25, 2013, and effective on November 30, 2013. This rule was referenced in the 2013 CBG SIP Revision, but not finalized for inclusion and EPA consideration at that time.”<sup>22</sup> The 2014 CBG SIP Revision revised A.A.C. R20-2-708(B) (Gasoline Ethanol Blends) to make the rule consistent with A.R.S. §§ 41-2083(D) and 41-2122(A) in limiting gasoline volatility.<sup>23, 24</sup> Typographical errors were also corrected in rules A.A.C. R20-2-708(B)(3)(a)(ii) and A.A.C. R20-2-708(B)(3)(c)(ii).

The 2014 CBG SIP Revision also included amendments to A.A.C. R20-2-751, R20-2-752, and Title 20, Chapter 2, Article 7, Table A. The amendments were made to maintain consistency throughout the rules and reflect the changes made to A.A.C R20-2-708(B).<sup>25</sup> A.A.C. R20-2-752(4) (c) (general requirements for registered gasoline suppliers) was also modified to further clarify submitting CBG and Arizona Reformulated Blend-stock for Oxygenate Blending ( AZRBOB ) sampling reports to the Department Director.<sup>26</sup> Additionally, the footnote in Table A of Title 20, Chapter 2, Article 7 was revised to correct a technical error in the equation for determining vapor pressure.<sup>27</sup> Table 2 (*infra*), a regulatory crosswalk, illustrates the rules impacted by the 2014 CBG SIP Revision.

<sup>21</sup> This submission is requesting the 2014 CBG SIP supplement we withdrawn from EPA consideration.

<sup>22</sup> Ariz. Dept. of Env'tl. Quality, 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program Supplement.

<sup>23</sup> *Id.*

<sup>24</sup> A.R.S. § 41-2083 is now A.R.S. §3-3433 (Standards for motor fuel; exceptions); A.R.S. § 41-2122 is now A.R.S. § 3-3491 (Standards for oxygenated fuel; volatility; exceptions).

<sup>25</sup> Ariz. Dept. of Env'tl. Quality, 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program Supplement.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

**Table 2. 2014 Update to the CBG Program**

2014 Update to the CBG Program		
<i>Statute/ Rule amended</i>	<i>2016 Department of Agriculture Recodification *</i>	<i>Codification Date</i>
A.A.C. R20-2-708(B) Gasoline Ethanol Blends <sup>28</sup>	A.A.C. R3-7-708 Gasoline Ethanol Blends	19 A.A.R. 3325 November 30, 2013
A.A.C. R20-2-702 Materials Incorporated by Reference	A.A.C. R3-7-702 Materials Incorporated by Reference	24 A.A.R. 2666, November 10, 2018
A.A.C. R20-2-751 Arizona CBG Requirements	A.A.C. R3-7-751 Arizona CBG Requirements	19 A.A.R. 3325 November 30, 2013
A.A.C. R20-2-752 General Requirements for Registered Suppliers	A.A.C. R3-7-752 General Requirements for Registered Suppliers	19 A.A.R. 3325 November 30, 2013
A.A.C. Title 20, Chapter 2, Article 7, Table A Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB	A.A.C. Title 3, Chapter 7, Article 7, Table A Arizona Weights and Measures Services Division Test Methods for Arizona CBG and AZRBOB	19 A.A.R. 3325 November 30, 2013
*The 2016 Department of Agriculture recodification column is for reference only. The Department of Weights and Measures was transferred to the Department of Agriculture in 2016. As a result, the Weights and Measures rules are no longer located under Title 20, Section 2, but Title 3, Section 7 of the A.A.C.		

### 3.4 2015-2016 Update to the CBG Program

Officially in 2016, the Arizona Department of Weights and Measures was merged into the Department of Agriculture, creating the Weights and Measures Service Division (WMSD).<sup>29</sup> With this merger, all of the former Department of Weights and Measures authority, duties, and responsibilities were transferred to the Department of Agriculture's WMSD.<sup>30</sup> HB2480 and HB2171, which outlined the merger, stipulated that all of the former Department of Weights and Measures statutes and rules directing its activities were to be recodified and would remain in effect until superseded by administrative action from WMSD.<sup>31</sup> WMSD took action and filed a Notice of Recodification on August 15, 2016; the notice did not alter the language or the authority of any of the rules transferred.<sup>32</sup> Table 3 (*infra*), a regulatory crosswalk, illustrates the recodification of the statutes and rules under the Department of Agriculture. The amendments included in the bills are summarized below.

HB 2171 contained the following updates to statutory language:

<sup>28</sup> The title of this rule was changed to "Gasoline Oxygenate Blends" on 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

<sup>29</sup> HB 2480, 52<sup>nd</sup> Leg., 1<sup>st</sup> Reg. Sess. (Ariz. 2015); HB 2171, 53<sup>rd</sup> Leg., 2<sup>nd</sup> Reg. Sess. (Ariz. 2016).

<sup>30</sup> *Id.*

<sup>31</sup> HB 2171, 53<sup>rd</sup> Leg., 2<sup>nd</sup> Reg. Sess., Final Amended Fact Sheet for H.B. 2480 (Ariz. 2015).

<sup>32</sup> 22 A.A.C. 2786, effective Aug. 15, 2016 (Supp. 16-3).

- A.R.S. § 3-3475(B) clarified informal settlement procedures for civil penalties.
- A.R.S. § 3475 (C)(5) clarified the maximum civil penalties applied to pipelines, terminals, and fuel transporters.
- The definitions previously found in A.R.S. § 41-2121 were transferred to A.R.S. § 3-3491 in HB 2480. Later, A.R.S. § 3-3491 were repealed, and the definitions were moved to A.R.S. § 3-3401 as part of HB 2171.
- A.R.S. § 3-3491 and A.R.S. § 3-3492 clarified the term “manufacturers or suppliers of gasoline” to “gasoline providers.”
- A.R.S. § 3-3493 removed outdated reporting requirements related to carbon monoxide and other editorial changes.

**Table 3. 2015-2016 Update to the CBG Program**

2015-2016 Update to the CBG Program		
<i>Sections in the Arizona SIP</i>	<i>2016 Department of Agriculture Recodification</i>	<i>Codification Date</i>
<i>Statutory Elements</i>		
A.R.S. § 41-2051 (6), (10), (11), (12), and (13) Definitions— “Certification,” “Department,” “Diesel fuel,” “Director,” and “E85”	A.R.S. § 3-3401 (12), (17), (16), (18) and (13) Definitions – “Certification,” “Department,” “Diesel fuel,” “Associate Director,” and “Ethanol Flex Fuel” <sup>33</sup>	Laws 2015, 1 <sup>st</sup> Reg. Sess., Ch. 244
A.R.S. § 41-2083 Standards for Motor Fuel; Exceptions	A.R.S. § 3-3433 Standards for Motor Fuel; exceptions	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016
A.R.S. § 41-2113 Violation; Classification; Jurisdiction	A.R.S. § 3-3473 Violation; Classification; Jurisdiction	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016
A.R.S. § 41-2115 Civil Penalties	A.R.S. § 3-3475 Civil Penalties; hearing	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016
A.R.S. § 41-2121 Definitions	A.R.S. § 3-3491 Definitions (Repealed in HB 2171); Definitions moved to A.R.S. § 3- 3401	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016
A.R.S. § 41-2122 Standards for Oxygenated Fuel; Volatility Exemptions	A.R.S. § 3-3491 Standards for Oxygenated Fuel; Volatility Exemptions	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016

<sup>33</sup> “Director” was replaced with “Associate Director” in HB 2480 and “E85” was replaced with “Ethanol Flex Fuel” in HB 2171.

2015-2016 Update to the CBG Program		
<i>Sections in the Arizona SIP</i>	<i>2016 Department of Agriculture Recodification</i>	<i>Codification Date</i>
A.R.S. § 41-2123 Area A; sale of gasoline; oxygen content	A.R.S. § 3-3492 Area A; sale of gasoline; oxygen content	Laws 2016, 2nd Reg. Sess., Ch. 232, § 24, effective August 6, 2016
A.R.S. § 41-2124 Area A; Fuel Reformulation; Rules	A.R.S. § 3-3493 Area A; Fuel Reformulation; Rules	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016
A.R.S. § 41-2125 Area B; Sale of Gasoline; Oxygen Content	A.R.S. § 3-3495 Area B; Sale of Gasoline; Oxygen Content	Laws 2016, 2 <sup>nd</sup> Reg. Sess., Ch. 232, § 24, effective August 6, 2016
<i>Regulatory Elements</i>		
A.A.C. R20-2-101 Definitions (Administration and Procedures)	A.A.C. R3-7-101 Definitions (Administration and Procedures)	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-701 Definitions (Motor Fuels and Petroleum Products)	A.A.C. R3-7-701 Definitions (Motor Fuels and Petroleum Products)	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-716 Sampling and Access to Records	A.A.C. R3-7-716 Sampling and Access to Records	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-750 Registration Relating to Arizona CBG or	A.A.C. R3-7-750 Registration Relating to Arizona CBG or	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-751 Arizona CBG Requirements	A.A.C. R3-7-751 Arizona CBG Requirements	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-752 General Requirements for Registered Suppliers	A.A.C. R3-7-752 General Requirements for Registered Suppliers	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-753 General Requirements for Pipelines and Third-party Terminals	A.A.C. R3-7-753 General Requirements for Pipelines and Third-party Terminals	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-754 Downstream Blending Exceptions for Transmix	A.A.C. R3-7-754 Downstream Blending Exceptions for Transmix	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-755 Additional Requirements for AZRBOB and Downstream Oxygenate	A.A.C. R3-7-755 Additional Requirements for AZRBOB and Downstream Oxygenate	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-756 Downstream Blending of Arizona CBG with Non-oxygenate Blend-stocks	A.A.C. R3-7-756 Downstream Blending of Arizona CBG with Non-oxygenate Blend-stocks	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-757 Product Transfer Documentation;	A.A.C. R3-7-757 Product Transfer Documentation;	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-758 Adoption of Fuel Certification Models	A.A.C. R3-7-758 (Rescind)	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-759 Testing Methodologies	A.A.C. R3-7-759 Testing Methodologies	22 A.A.R. 2786, September 30, 2016

2015-2016 Update to the CBG Program		
<i>Sections in the Arizona SIP</i>	<i>2016 Department of Agriculture Recodification</i>	<i>Codification Date</i>
A.A.C. R20-2-760 Compliance Surveys	A.A.C R3-7-760 Compliance Surveys	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-761 Liability for Noncompliant Arizona CBG or AZRBOB	A.A.C. R3-7-761 Liability for Noncompliant Arizona CBG or AZRBOB	22 A.A.R. 2786, September 30, 2016
A.A.C. R20-2-762 Penalties	A.A.C. R3-7-762 Penalties	22 A.A.R. 2786, September 30, 2016
A.A.C. Title 20, Chapter 2, Article 7, Table 1, Type 1 Gasoline Standards	A.A.C. Title 3, Chapter 7, Article 7, Table 1, Type 1 Arizona CBG Standards	22 A.A.R. 2786, September 30, 2016
A.A.C. Title 20, Chapter 2, Article 7, Table 2, Type 2 Gasoline Standards	A.A.C. Title 3, Chapter 7, Article 7, Table 2, Type 2 Arizona CBG Standards	22 A.A.R. 2786, September 30, 2016

### 3.5 2017-2018 Update to the CBG Program for the Implementation of Isobutanol

This section focuses on changes to the WMSD statutes and rules to allow isobutanol to be used as an alternative to ethanol within Arizona. This section examines: 1) the legislative and regulatory changes to the CBG program; 2) the changes to the SIP; 3) EPA's 2013 comments addressed in the 2017 CBG program revisions; and 4) The 110(l) analysis for the inclusion of isobutanol into the Arizona SIP.

#### 3.5.1 Statutes Amended

On May 10, 2017, A.R.S. §§3-3491 (Standards for oxygenated fuel; volatility; exceptions) and 3-3493 (Area A; fuel reformulation; rules) were amended by HB2368, which expanded Arizona's CBG program to include additional ethanol alternatives, such as isobutanol.

HB2368 amended A.R.S. § 3-3491 (Standards for oxygenated fuel; volatility; exceptions) to allow isobutanol to be used as an alternative to ethanol. The statute A.R.S. § 3-3491 lists all of the oxygenates that gasoline suppliers are prohibited from blending with gasoline in Arizona. According to the statute, if one of these prohibited oxygenates is found in a fuel blend, the amount cannot exceed 0.10 percent of oxygen by weight. The prohibited oxygenate list protects public health by restricting certain compounds from being used in consumer gasoline and prevents the use of additives that could impair the performance of a vehicle's emissions control device to a significant degree. In 2016 EPA found isobutanol to be comparative to ethanol, which prompted the Arizona Legislature to support its removal from the prohibited list under A.R.S. § 3-3491.<sup>34</sup>

<sup>34</sup> U.S. Envtl. Prot. Agency, Letter from EPA to Gevo, Inc. Approving Petition for Pathway for the Generation of Renewable fuels RINs, (Dec. 22, 2016), <https://www.epa.gov/sites/production/files/2017-01/documents/gevo-butanol-deter-ltr-2016-12-22.pdf> (last visited Dec. 28, 2020).

HB2368 also amended A.R.S. § 3-3493 (B) to allow the use of non-ethanol oxygenates in motor vehicle fuel. Under the previous version of A.R.S. § 3-3493, gasoline supplied in a county with a population of 1,200,000 or more persons or within “Area A” were required to contain ethanol oxygenates. The original text of A.R.S. § 3-3493 expressed that “the fuel described in this subsection shall meet the requirements of A.R.S. § 3-3492, subsection A, paragraph 1.” HB2368 changed this language to “the fuel described in this subsection shall meet the requirements of A.R.S. § 3-3492, subsection A, paragraph 1 *OR 2*” (*emphasis added*). By amending the statute to cite to subsection A, paragraph 1 *OR 2* (*emphasis added*), the statute was expanded to allow the use of “blend[s] other than a gasoline-ethanol blend[s], contain[ing] not less than 2.7 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued.”

In addition, HB 2171 repealed A.R.S. § 3-3491 and moved the definitions under the statute to A.R.S. § 3-3401 in 2016.<sup>35</sup>

### 3.5.2 Rules Amended

The rules composing the Arizona CBG Program, approved by EPA for inclusion in the Arizona SIP, are located under 40 CFR Part 52, Subpart D. The sections below were revised to reflect the changes adopted by HB2368.<sup>36</sup>

#### **A.A.C. R3-7-101. Definitions (Administration and Procedures)**

A.A.C. R3-7-101 defines the terms listed under Title 3, Section 7, Article 1. The rule provides additional terms specifically related to the ADA’s administrative practices that are not available elsewhere in the CBG Program rules. A.A.C. R3-7-101 went into effect on June 5, 2004, and was approved by EPA on June 13, 2012. The 2018 Isobutanol rulemaking revised the materials incorporated by reference by updating edition numbers and defining “stage II vapor recovery.”

#### **A.A.C. R3-7-701. Definitions (Motor Fuels and Petroleum Products)**

A.A.C. R3-7-701 defines the terms used throughout Article 7. Motor Fuels and Petroleum Products. It provides additional terms not available under A.R.S. § 3-3401 and A.A.C. R3-7-101, which relate directly to motor fuels and petroleum products. The rule was adopted on February 9, 2001, and the last revision was approved into the SIP by EPA on March 4, 2004. A.A.C. R3-7-701 was revised in 2018 when the definitions for “approved oxygenate” and “isobutanol” were added. In addition, the language referring to “fuel ethanol” was replaced with general fuel terminology.

#### **A.A.C. R3-7-702. Materials Incorporated by Reference**

A.A.C. R3-7-702 defines the materials that the ADA incorporated into the rules by reference. The section was updated to allow the adoption of ASTM D7862-17, which provides the specifications that shall be met for isobutanol blended for use in motor vehicle gasoline. The department is submitting this section for incorporation into the Arizona SIP, specifically sections (A)(4), (A)(5), (A)(6), (A)(10), (A)(11), (A)(12), A)((13).

#### **A.A.C. R3-7-708. Gasoline Oxygenate Blends**

A.A.C. R3-7-708 outlines the requirements for blending oxygenates into gasoline. The word “percentage” was added to this section to provide clarification and maintain consistency.

<sup>35</sup> Laws 2016, 2nd Reg. Sess., Ch. 232, § 24, effective August 6, 2016

<sup>36</sup> 24 A.A.C. 2666, effective Nov. 10, 2018.



#### **A.A.C. R3-7-749. Definitions Applicable to Arizona CBG and AZRBOB**

A.A.C. R3-7-749 defines the terms applicable to the CBG Program and the AZRBOB blending procedures. The 2018 revision removed the “fuel ethanol” language and replaced it with “oxygenate.”

#### **A.A.C. R3-7-751. Arizona CBG Requirements**

A.A.C. R3-7-751 outlines the CBG fuel standards, including the minimum and maximum requirements for oxygen content and the allowed percentage of oxygenate by volume. The rule was adopted on February 9, 2001, and approved by EPA on March 4, 2004. The 2018 rulemaking added the blending volume criteria for isobutanol as applied to the November 1 through March 31 fuel standards. The language explicitly referring to ethanol under section (A) (7), (B), and (C) were updated to provide the maximum oxygenates in addition to ethanol. Section (R) prohibits the use of oxygenates other than ethanol until the SIP revision is approved.

#### **A.A.C. R3-7-752. General Requirements for Registered Suppliers**

A.A.C. R3-7-752 lists the general requirements for registered suppliers and includes the requirements for record-keeping, documentation, and notification standards. On September 22, 1999, the rule was adopted and approved by the EPA on March 4, 2004. The 2018 rulemaking, incorporated “isobutanol; 0.6% by volume” under section (H) (1) (e) and renumbered sections (f) through (k).

#### **A.A.C. R3-7-755. Additional Requirements for AZRBOB and Downstream Oxygenate**

A.A.C. R3-7-755 applies to the additional requirements for the downstream blending of oxygenates in motor vehicle fuel, along with the additional requirements for AZRBOB. The rule was initially adopted on September 22, 1999, and approved by EPA on March 4, 2004. The 2018 rulemaking removed the term “fuel ethanol” and replaced it with general fuel terminology. The language was added to clarify the re-certification requirements for a registered oxygenate blender not using an oxygenate specified by the registered supplier.

#### **A.A.C. R3-7-757. Product Transfer Documentation; Records; Retention**

A.A.C. R3-7-757 outlines the process for documenting product transfer and record retention. The rule was adopted by Arizona on September 22, 1999, and approved by EPA on March 4, 2004. The 2018 rulemaking removed and replaced all “ethanol” specific language with general fuel terminology.

#### **A.A.C. R3-7-759. Testing Methodologies**

A.A.C. R3-7-759 supplies the testing methodologies that registered suppliers and importers must use to certify that the Arizona CBG or AZRBOB meets the legislative requirements. The rule was initially adopted on February 9, 2001, and approved by EPA on March 4, 2004. The 2018 rulemaking replaced “fuel ethanol” with “the oxygenate content” under section (B).

#### **A.A.C. Title 3, Chapter 7, Article 7, Table 1. Type 1 Arizona CBG Standards**

Table 1. Lists the CBG standards that have been incorporated into the State’s SIP. The table was adopted on February 9, 2001, and approved by EPA on March 4, 2004. The 2018 rulemaking amended various sections of the table to include the requirements for isobutanol. The value of “3.5” was inserted into column D (Oxygen content: other than fuel ethanol, (% by weight)) for fuels used between April 1-October 31<sup>st</sup> and the language in the notes section of the chart added “\*\*\*\*\*Unless prohibited by” A.R.S. § 3-3491.”

#### **A.A.C. Title 3, Chapter 7, Article 7, Table 2. Type 2 Arizona CBG Standards**



Table 2. Lists Arizona’s CBG Type 2 fuel standards and is cited under A.A.C. R3-7-751 and was adopted on February 9, 2001. EPA approved the rule on March 4, 2004. The 2018 rulemaking created an additional section for isobutanol and defined the standards of use for the additive.

### 3.5.3 2017-2018 Update to the SIP

This section outlines the changes made during the 2017 Legislative session and the 2018 rulemaking. Table 4 (*infra*), a regulatory crosswalk, illustrates the rules and statutes renumbered and amended when the WMSD merged with the ADA. Table 4 also includes the rules in the 2013 CBG SIP Revision submission that have not yet been approved into the Arizona SIP. Additionally, this section will examine the EPA’s comments regarding the 2013 CBG SIP Revision in Table 4 (*infra*).

**Table 4. 2017-2018 Update to the CBG Program**

2017-2018 Update to the Weights and Measures Division Statutory Provisions and Rules		
<i>Rule Amended/Added</i>	<i>Corresponding Rule in SIP</i>	<i>Codification Date</i>
<i>Statutory Elements</i>		
A.R.S. § 3-3491 Standards for Oxygenated Fuel; Volatility; Exceptions	A.R.S. § 41-2122 Standards for Oxygenated Fuel; Volatility; Exceptions	Laws 2017, Ch. 295, § 1 (May 10, 2017)
A.R.S. § 3-3493 Area A; Fuel Reformulation; Rules	A.R.S. § 41-2124 Area A; Fuel Reformulation; Rules	Laws 2017, Ch. 295, § 2 (May 10, 2017)
<i>Rule Elements</i>		
A.A.C. R3-7-101 Definitions-Administration and Procedures	A.A.C. R20-2-101 Definitions-Administration and Procedures	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-701 Definitions-Motor Fuels and Petroleum Products	A.A.C. R20-2-701 Definitions-Motor Fuels and Petroleum Products	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-702 Materials Incorporated by Reference	A.A.C. R20-2-702 Materials Incorporated by Reference	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-749 Definitions Applicable to Arizona CBG and AZRBOB	A.A.C. R20-2-749 Definitions Applicable to Arizona CBG and AZRBOB	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-751 Arizona CBG Requirements	A.A.C. R20-2-751 Arizona CBG Requirements	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-752 General Requirements for Registered Suppliers	A.A.C. R20-2-752 General Requirements for Registered Suppliers	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-755 Additional Requirements for AZRBOB and Downstream Oxygenate	A.A.C. R20-2-755 Additional Requirements for AZRBOB and Downstream Oxygenate	24 A.A.R. 2666, September 28, 2018

A.A.C. R3-7-757 Product Transfer Documentation; Records; Retention	A.A.C. R20-2-757 Product Transfer Documentation; Records; Retention	24 A.A.R. 2666, September 28, 2018
A.A.C. R3-7-759 Testing Methodologies	A.A.C. R20-2-759 Testing Methodologies	24 A.A.R. 2666, September 28, 2018
A.A.C. Title 3, Chapter 7, Article 7, Table 1, Type 1 Gasoline Standards	A.A.C. Title 20, Chapter 2, Article 7, Table 1, Type 1 Arizona CBG Standards	24 A.A.R. 2666, September 28, 2018
A.A.C. Title 3, Chapter 7, Article 7, Table 2, Type 2 Gasoline Standards	A.A.C. Title 20, Chapter 2, Article 7, Table 2, Type 2 Arizona CBG Standards	24 A.A.R. 2666, September 28, 2018

### 3.5.4 EPA Comments

In 2017, EPA requested that ADEQ and WMSD address the rules discussed in Table 5 (*infra*) and codified in the 2017-2018 WMSD rulemaking.

**Table 5. EPA Comments Received**

EPA Comments Received		
Title	Comment	Changes made
A.A.C. R3-7-701 Definitions	Defines AZRBOB as a combination of blend-stocks that includes “an approved oxygenate” – which is not defined. Define ‘approved oxygenate’ or remove the word “approved.”	“Approved oxygenate” has been defined.
A.A.C. R3-7-751(C) Arizona CBG Requirements, Fuel ethanol and other oxygenate specifications	The rule contains the specifications for blended ethanol that was included in the SIP submittal. The specifications differ from those in the current Tier 3 fuel standards promulgated by EPA. This rule should mirror federal standards.	The rule was amended to mirror the federal standards.
A.A.C. R3-7-751 (A)(7)(b) Arizona CBG Requirements, Maximum oxygen content	Sets a maximum oxygen content for fuel ethanol and as used under A.R.S. §3-3491. The statute does not include a maximum oxygen content for isobutanol. EPA recommends specifying a maximum oxygen content for isobutanol, or language similar to the language found in A.A.C. R3-7-708(A), which specifies that the level of the oxygenate used in a fuel blend shouldn’t exceed the amount allowed by EPA waiver.	The “ethanol” specific language was removed, and the maximum oxygen content for isobutanol was added.

### 3.6 110(I) Demonstration

Section 110(I) of the CAA directs EPA to deny a submitted plan if it would interfere with the requirements applicable to attainment or reasonable further progress. As a result, the submitting state must demonstrate through a 110(I) anti-backsliding analysis that the proposed revision to the SIP will

not significantly influence emission levels or ambient air concentrations to obtain EPA approval. ADEQ currently has two methods at its disposal to satisfy section 110(l). First, ADEQ will demonstrate that isobutanol is substantially similar to existing EPA approved oxygenate. Second, ADEQ can use an existing EPA fuel waiver available for isobutanol.

Under the first method, ADEQ would use the “Substantially Similar Rule” found under CAA § 211(f) to satisfy the 110(l) requirements by demonstrating that isobutanol is similar to an existing EPA approved oxygenate.<sup>37</sup> CAA Section 211(f) (1) makes it,

“unlawful for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in the use of, any fuel or fuel additive for use in motor vehicles manufactured after the model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.”<sup>38</sup>

Using the Substantially Similar Rule, agencies may avoid conducting a traditional 110(l) demonstration when introducing a fuel or additive if it is “substantially similar” to an already existing EPA approved fuel or additive.<sup>39</sup> Fuel additives or oxygenates are considered “substantially similar” if the proposed additive does not “contribute. . . more than 15ppm sulfur by weight to the fuel” and “contain no more than 2.0 percent oxygen by weight, except fuels containing aliphatic ethers or alcohols (excluding methanol) must contain no more than 2.7 percent oxygen by weight.”<sup>40</sup>

In 2016 EPA found isobutanol to be substantially similar to existing renewable fuel pathways under 80 CFR § 1426, Table 1, “the March 2010 RFS Rule,” and the “December 2010 Grain Sorghum Rule.”<sup>41, 42, 43</sup> In other words, EPA found isobutanol to be equivalent to ethanol, which was approved into the SIP for use throughout the state. Since EPA found isobutanol and ethanol to be equivalent and because the current program ethanol levels are not impacting the State’s air quality, a traditional 110(l) demonstration is unnecessary.<sup>44</sup>

The “Substantially Similar Rule” is not the only pathway available for additional oxygenates to be approved into the Arizona SIP; ADEQ could apply for and receive an EPA fuel waiver. To use this approval pathway, EPA requires the supplier to register an additive for “use in a concentration that complies with a previously granted waiver.”<sup>45</sup> If EPA grants one such waiver for a fuel blend or oxygenate, “the waiver is applicable to all similarly situated manufacturers.”<sup>46</sup> As it happens, EPA

<sup>37</sup> CAA 211(f) (1)(A).

<sup>38</sup> 73 Fed. Reg. 22277, 22278-79 (Apr. 25, 2008).

<sup>39</sup> *Id.* 73 Fed. Reg. 22277, 22278-79 (Apr. 25, 2008). U.S. Env’tl. Prot. Agency, Regulation of Fuels and Fuel Additives; Definition of Substantially Similar (1991), <https://www.epa.gov/sites/production/files/2015-10/documents/jan91.pdf> (last visited Dec. 28, 2020).

<sup>40</sup> *Id.* at 38

<sup>41</sup> See U.S. Env’tl. Prot. Agency, Gevo, Inc. Approval, (2016). <https://www.epa.gov/renewable-fuel-standard-program/gevo-inc-approval> (last visited Dec. 28, 2020); 83 Fed. Reg. 13460 (March 29, 2018); EPA Approval Letter for the Registration of Isobutanol as a Fuel Additive for Blending into Gasoline at Levels Up To 16 Volume Percent, sent from Scott Pruitt, EPA Administrator to James Baustian, Butamax Advanced Biofuels, Fuel Product Manager (June 12, 2018), <https://www.epa.gov/sites/production/files/2018-06/documents/fuel-additive-registration-isobutanol-2018-06-12-redacted.pdf> (last visited Jan. 19, 2021).

<sup>42</sup> 75 Fed. Reg. 14670, 14670-14904 (Mar. 26, 2010).

<sup>43</sup> 77 Fed. Reg. 74592, 74592-74607 (Dec. 17, 2012).

<sup>44</sup> See Section 5 of this submission.

<sup>45</sup> See Timothy A. Slating, and Jay P. Kesan, A legal analysis of the effects of Renewable Fuel Standard (RFS2) and Clean Air Act on the commercialization of biobutanol as a transportation fuel in the United States, 4 GCB Bioenergy 107, 113 (2012).

<sup>46</sup> *Id.* at 45

granted two isobutanol related fuel waivers in the 1980s, the Octamix waiver and the DuPont waiver.<sup>47</sup>

<sup>48</sup> These waivers allowed up to 16 percent isobutanol to be legally blended into unleaded commercial gasoline. These waivers, while granted in the 1980s, are still relevant today. Since EPA has found isobutanol to be substantially similar to ethanol and has approved isobutanol for fuel blending with the DuPont and Octamix Waiver- this SIP revision complies with CAA § 110(I).

---

<sup>47</sup> 77 Fed. Reg. 2979, 2979-81 (Jan. 20, 2012).

<sup>48</sup> 51 Fed. Reg. 15064, 15064-67 (Apr. 22, 1986).

## 4 Arizona Gasoline Set-aside (GSA) Program

Chapter 4 examines: 1) the background of the ADOT GSA Program; 2) SIP-approved statutes subsequently repealed by the Arizona Legislature via SB1200; 3) the proposed changes to the Arizona SIP regarding the GSA Program; 5) the required CAA § 110(l) demonstration.

### 4.1 Background

In 1987, EPA promulgated a FIP for parts of Pima and Maricopa County after the nonattainment area violated the 1971 air quality standard for CO. The FIP required a wintertime oxygenated fuel program to control emissions from motor vehicles.<sup>49</sup> As a result, in June of 1988, the Arizona State Legislature authorized the GSA Program (A.R.S. §§ 28-2701 through 28-2708) through the passage of HB2206.<sup>50</sup>

HB2206 established the GSA Program, which granted discretionary authority to the Governor to require distributors to reserve an amount of unblended gasoline for blending with ethanol during fuel supply shortages. The GSA program included additional requirements for ethanol delivery, storage, and blending operations at fuel terminals, which significantly increased the compliance burden on suppliers.<sup>51</sup> EPA allowed Arizona to implement the GSA program in October 1989 to minimize supply disruptions.<sup>52</sup> At the time, it was believed that the GSA Program would allow Arizona to meet federal fuel standards in the event of unforeseeable fuel supply shortages.<sup>53</sup> In 1995, as part of SB1364, the statutes were renumbered from A.R.S. §§ 28-2701 through 28-2708 (Arizona SIP-approved numbering) to A.R.S. §§ 28-481 through 28-485, and 28-488 through 28-490.<sup>54</sup> The renumbering, however, was not submitted to EPA. Two additional statutes were added to the GSA Program in 1995: A.R.S. §§ 28-486 (Liaison designation) and 28-487 (Limitation of supply). The new statutes became effective on January 1, 1997. Due to the GSA program requiring compliance with eight statutes the program was deemed to be too complex and burdensome for suppliers to utilize. There is no evidence that the set-aside program was used in its thirty-year history.

Rather than relying on the GSA Program, Arizona uses the Energy Policy Act (EPAct) emergency fuel waiver program. Arizona has successfully obtained EPA emergency fuel waivers for alternative CBG blends during fuel supply shortages.<sup>55, 56, 57</sup> For Arizona, the EPAct waivers are an effective way to manage large-scale disruptions to the state's fuel supply.

<sup>49</sup> 53 Fed. Reg. 17378 (May 16, 1988).

<sup>50</sup> HB2206, 38<sup>th</sup> Leg., 2<sup>nd</sup> Reg. Sess. (AZ 1998).

<sup>51</sup> *Id.*

<sup>52</sup> 53 Fed. Reg. 30239 (Aug. 10, 1988).

<sup>53</sup> 53 Fed. Reg. 30224 (Aug. 10, 1988).

<sup>54</sup> SB1364, 42<sup>nd</sup> Leg., 1<sup>st</sup> Reg. Sess. (AZ 1995)

<sup>55</sup> Fuel Waiver for Phoenix, Arizona's RVP season, Letter from Stephen L. Johnson, EPA Administrator, to Governor Napolitano (Sep. 13, 2005), available at <https://www.epa.gov/sites/production/files/documents/az-waiver.pdf> (last visited Dec. 28, 2020).

<sup>56</sup> *Id.*

<sup>57</sup> October 2008 Fuel Waiver Concerning Type 2 "Cleaner Burning Gasoline" Requirements in Portions of Arizona ("Area A"), Letter from Stephen L. Johnson, EPA Administrator, to Governor Napolitano (Oct. 10, 2008), available at <https://www.epa.gov/sites/production/files/documents/az-fuelwaiver101008.pdf> (last visited Dec. 28, 2020).

## 4.2 Statutes Repealed

This section summarizes the Arizona statutes that comprise the GSA Program (A.R.S. §§ 28-2701 through 28-2708). The GSA program's statutes were initially approved into the Arizona SIP on August 10, 1988, as part of HB2206. The EPA's approval was subsequently vacated by the U.S. Court of Appeals for the Ninth Circuit in *Delaney v. EPA* but later restored on January 29, 1991.<sup>58</sup> The GSA program was repealed in 2018 via SB1200.<sup>59</sup>

### **A.R.S. § 28-2701. Definitions**

A.R.S. § 28-2701 defined the program's elements, including assignment, blender, oxygenate, oxygenated fuel, etc.

### **A.R.S. § 28-2702. Department Survey**

A.R.S. § 28-2702 required monthly surveying from October 1<sup>st</sup> - March 31<sup>st</sup> to determine the availability and sale of unblended gasoline in the CO vehicle emissions control area.

### **A.R.S. § 28-2703. Determination of Shortage; Declaration**

A.R.S. § 28-2703 established parameters for blenders to request declaration of an unblended gasoline shortage and defined the Director and the Governor's roles.

### **A.R.S. § 28-2704. State Set-aside Volume**

A.R.S. § 28-2704 described the percent of set-aside fuel the department could require at any particular month.

### **A.R.S. § 28-2705. Assignment of set-aside**

A.R.S. § 28-2705 described the process to issue an order to a prime supplier regarding time frames.

### **A.R.S. § 28-2706. Price**

A.R.S. § 28-2706 prohibited premium on set-aside fuel except to cover extra costs of delivery.

### **3.1.7 A.R.S. § 28-2707. Application**

A.R.S. § 28-2707 established the State's process to include a blender (applicant) in the program. The statute provided for the application for a set-aside, an investigation of the application, and for a decision to deny or grant the application.

### **3.1.8 A.R.S. § 28-2708. Appeal**

A.R.S. § 28-2708 established the process to appeal a denial of an application for a set-aside allocation.

---

<sup>58</sup> *Delaney v. EPA*, 898 F.2d 687 (9th Cir. 1990).

<sup>59</sup> SB1200, 53<sup>rd</sup> Leg., 2<sup>nd</sup> Reg. Sess. (AZ 2018)

Table 6 (*infra*), a regulatory crosswalk, illustrates the ADOT GSA statutes in the Arizona SIP that were repealed by SB1200.

**Table 6. GSA Program Statutes Repealed**

<i>The ADOT GSA Program Statutes Repealed by SB1200</i>	
<i>GSA Program Statute</i>	<i>Repealed</i>
A.R.S. § 28-481 (Definitions)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-482 (Department Survey)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-483 (Determination of Shortage; Declaration)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-484 (State Set-aside Volume)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-485 (Assignment of Set-aside)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-488 (Price)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-489 (Application)	Laws 2018, Ch. 260, § 3 (April 23. 2018)
A.R.S. § 28-490 (Appeal)	Laws 2018, Ch. 260, § 3 (April 23. 2018)

### 4.3 110(l) Demonstration

Under CAA Section 110(l), the EPA Administrator has the authority to deny a submitted plan if it would interfere with the requirements applicable to attainment or reasonable further progress. As a result, the submitting state must demonstrate through a 110(l) anti-backsliding analysis that a proposed revision will not impact the emissions levels or ambient air concentrations to obtain EPA approval. Under certain circumstances, a traditional 110(l) demonstration is unnecessary, such as when a control method or program was never implemented or used. This section has demonstrated that removing the GSA Program will not interfere with attainment because it was never implemented as part of an attainment effort. More specifically, removing this program from Arizona's SIP will not interfere with attainment because Arizona's GSA Program has never been used, even though there have been incidents where the program could have been applied. During these incidents, Arizona instead bypassed the program entirely and obtained fuel through a federal fuel waiver under CAA § 211(c) (4) (C) (ii).

The federal fuel waiver allows the EPA Administrator to "temporarily waive a condition or prohibition respecting the use of a fuel or a fuel additive . . . if . . . after consultation with, and concurrence by, the Secretary of Energy the Administrator determines that [a] . . . extreme and unusual fuel or fuel additive supply circumstances exist in a State . . . which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers."<sup>60</sup> Or in instances where "such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster . . . or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers."

<sup>61</sup>Lastly, a fuel waiver may be granted by the administrator if "it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation that cannot otherwise be compensated for."<sup>62</sup>

<sup>60</sup> 42 U.S.C. §7545 (c) (4)(C).

<sup>61</sup> 42 U.S.C. §7545 (c) (4)(C)(ii)(i).

<sup>62</sup> 42 U.S.C. §7545 (c) (4)(C)(ii)(III).

Therefore, while the GSA Program in its thirty-plus years of existence has never been utilized, the federal fuel waiver is an effective means of helping states manage fuel supply shortages. The waiver program has been tested repeatedly during natural disasters and petroleum equipment failures, including and not limited to those caused by hurricanes in 2005, 2008, 2012, 2017, and 2018. EPA fuel waivers issued nationwide help increase the availability of conventional gasoline. Therefore, the GSA Program should be removed from the Arizona SIP, thereby allowing Arizona to utilize the more effective federal fuel waiver to resolve any fuel shortage issues that arise in the future.



## 5 Requested Updates to the Arizona CBG Program

The following statutes and rules listed in Table 7 were updated following the transfer of the Arizona Dept. of Weights and Measures to the Dept. of Agriculture, Weights and Measures Services Division. The statutes and rules cited below are the most recent iteration under Arizona law. The statutes and rules below have been streamlined to reduce the regulatory burden on stakeholders by ensuring the statutes are consistent with the current federal and industry standards. The statutes and rules revisions also updated numbering and language in the Arizona SIP to allow readers to navigate the SIP more efficiently, increasing the ease of compliance for the regulated community while protecting air quality. These changes have been in effect at the state level for several years and are as stringent as or more stringent than the equivalent statutes in the Arizona SIP. As a result, ADEQ believes that based on the results listed in Table 9, the updates listed in Table 7 have not negatively impacted the State's air quality.

Table 7 illustrates the changes made to the statutes and rules that make up the Arizona CBG program and that this SIP submission requests EPA to approve into the SIP. The changes listed in Table 7 are supported by the contents of Tables 8 and 9 and documents found in Appendix B and C of this revision.

**Table 7. Requested Updates**

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
A.R.S. § 28-2701 Definitions	Rescind (remove) SIP Statute A.R.S. § 28-2701 Definitions from the Arizona SIP	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
A.R.S. § 28-2702 Department Survey of Availability of Unblended Gasoline	Rescind (remove) SIP Statute A.R.S. § 28-2702 Department Survey of Availability of Unblended Gasoline	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
A.R.S. § 28-2703 Determination of Shortage: Declaration	Rescind (remove) SIP Statute A.R.S. § 28-2703 Determination of Shortage: Declaration	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
<b>Arizona Department of Transportation Statutes</b>		
A.R.S. § 28-2704 State Set-aside Volume	Rescind (remove) SIP Statute A.R.S. § 28-2704 State Set-aside Volume	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
A.R.S. § 28-2705 Assignment of Set-aside	Rescind (remove) SIP Statute A.R.S. § 28-2705 Assignment of Set-aside	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
A.R.S. § 28-2706 Price	Rescind (remove) SIP Statute A.R.S. § 28-2706 Price	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
A.R.S. § 28-2707 Application	Rescind (remove) SIP Statute A.R.S. § 28-2707 Application	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
A.R.S. § 28-2708 Appeals	Rescind (remove) SIP Statute A.R.S. § 28-2708 Appeals	The Gasoline Set-aside program (A.R.S. §§ 28-2701-2708) was repealed by Laws 2018. Ch. 260, §3 effective April 23, 2017. The program was never utilized before its repeal and was replaced by Federal Fuel Waivers pursuant to Section 211(c)(4) of the Clean Air Act and as defined under A.R.S. § 49-401.01.
<b>Weights and Measures Services Division Statutes and Rules</b>		
A.R.S. § 41-2051 (6), (10)- (12), and (13) Definitions—“Certification,”	Rescind (remove) SIP Statute A.R.S. § 41-2051 (6), (10)- (12), and (13) Definitions—“Certification,” “Department,” “Diesel fuel,” “Director,”	The statute was transferred and renumbered by Laws 2015 1st Reg. Sess. Ch. 244, § 2, effective July 1, 2016. The statute was then amended by Laws 2016 (1st Reg. Sess.) Ch. 244, § 4, effective July 1, 2016. <sup>63</sup>

<sup>63</sup> There were two bills passed in 2016 so to avoid confusing the reader the legislative session the statute was amended has been included.

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
<p>“Department,” “Diesel fuel,” “Director,” and “E85.”</p>	<p>and “E85.” Specifically ADEQ is asking that (6) “Biodiesel blend”, (10) “Biomass- based diesel”, (11) “Biomass-based diesel blend”, (12) “Certification” , and (13) “commercial device” be removed from the SIP because the definitions are no longer applicable to the CBG program. Approve into the SIP A.R.S. § 3-3401 (1), (2),(4), (17), (19), (20), (22), (24), (27), (28), (29), and (32) (Definitions) as adopted July 1, 2016</p>	<p>The statute was last amended by Laws 2016 (2nd Reg. Sess.) Ch. 232, § 4, effective July 1, 2016. The 2016 amendment effectively rewrote the statute by making the following amendments: Sections (1)-(3) were added to define the three CBG covered areas using A.R.S. § 49-541, which was approved into the Arizona SIP (May 22, 2013, 78 FR 30209). The original sections (1) through (9) were renumbered as (4) through (12), respectively. Section (5) (formerly section (2)) amended the definition of "Biodiesel." The newly renumbered Sections (7) and (8) made stylistic changes. Section (10) was added and defined "Biomass-based diesel." Section (11) was added to define "Biomass-based diesel blend." The original Sections (7) through (13) were renumbered as (12) through (18), respectively. The new Section (18) removed "E85" and replaced it with "Ethanol Flux fuel" and added "standard specification for ethanol fuel blends for flexible fuel automotive spark-ignition engines" to the end of the original definition. Sections (19) through (21) were added to the statute; Section (19) defines “fleet owner,” Section (20) defines “gasoline,” and Section (21) defined “gasoline provider.” Sections (14), (15), (16), (17), (18), (19), (20)-(25), (26), and (27) were renumbered as (22), (23), (25), (26), (30), (31), (33)-(38), (41), and (42) respectively, and only stylistic changes were made. The new Section (24) defines “manufacturer’s proving ground,” and the renumbered Section (26) removes "the ethanol blend E85 as defined in ASTM D5798 and adds 'Ethanol Flex Fuels.'" The new sections (27)-(29) added additional provisions to the existing statute. Specifically, Section (27) defines “motor vehicle racing event,” and Section (28) defines “oxygenate,” and Section (29) defines “oxygenated fuel.” The renumbered Section (32) defines “product transfer document,” the new Section (39) defines “supplier,” and the new Section (40) defines “vehicle emissions control area.”</p>
<p>A.R.S. § 41-2065 Powers and Duties</p>	<p>Rescind (remove) SIP Statute A.R.S. § 41-2065 Powers and Duties. Approve into the SIP A.R.S. § 3-3414 Powers and Duties as adopted August 3, 2018.</p>	<p>The statute was transferred and renumbered from A.R.S. § 41-2065 by Laws 2015, Ch. 244, § 2 effective July 1, 2016. The statute was again amended by Laws 2016 (1st Reg. Sess.) Ch. 244, 6, effective July 1, 2016, and again by Laws 2016 (2nd Reg. Sess.) Ch. 232, § 6, effective July 1, 2016. The second 2016 amendment updated or deleted outdated references within the text and made stylistic changes.</p>

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
		<p>The statute was last amended by Laws 2018 Ch. 126, § 1, effective August 3, 2018. The 2018 amendment, in (A)(13), added the last sentence; deleted former (A)(22), which read: “Report to the governor on or before August 1 of each year and at such other times as may be required on the work accomplished under this chapter” and made stylistic changes.</p>
A.R.S. § 41-2066 Enforcement powers of the director and inspectors (both versions)	Rescind (remove) SIP Statute A.R.S. § 41-2066 (2 versions) Enforcement powers of the director and inspectors. Approve into the SIP A.R.S. § 3-3415 Enforcement powers of the associate director, agents, and inspectors as adopted July 1, 2016.	<p>The statute was transferred and renumbered from A.R.S. § 41-2066 by Laws 2015 Ch. 244, § 2, effective July 1, 2016; The statute was again amended by Laws 2016 (2nd Reg. Sess.), Ch. 232, § 7, effective July 1, 2016. The 2016 amendment added “associate” throughout the section; in (A)(4), substituted “credentials of the associate director” for “director’s” and “inspectors” for “inspector’s credentials”; in (B), added “a warning requiring corrective action or” and deleted “the provisions of” following “in accordance with” and made stylistic changes.</p>
A.R.S. § 41-2066 Enforcement powers of the director and inspectors (both versions)	Rescind (remove) SIP Statute A.R.S. § 41-2066 Enforcement powers of the director and inspectors. Approve into the SIP A.R.S. § 3-3415 Enforcement powers of the associate director, agents, and inspectors as adopted July 1, 2016. Both of the previous two versions of A.R.S. § 41-2066 were combined and transferred into A.R.S. § 3-3415 .	<p>The statute was transferred and renumbered from A.R.S. § 41-2066 to A.R.S. § 3-3415 by Laws 2015 Ch. 244, § 2, effective July 1, 2016; The statute was again amended by Laws 2016 (2nd Reg. Sess.), Ch. 232, § 7, effective July 1, 2016. The 2016 amendment added “associate” throughout the section; in (A)(4), substituted “credentials of the associate director” for “director’s” and “inspectors” for “inspector’s credentials”; in (B), added “a warning requiring corrective action or” and deleted “the provisions of” following “in accordance with”; and made stylistic changes. Paragraph (A) was submitted as part of the ADEQ 2013 CBG SIP Revision.</p>
A.R.S. § 41-2083 Standards for liquid fuels; exceptions	Rescind (remove) SIP Statute A.R.S. § 41-2083 Standards for liquid fuels; exceptions. Approve into the SIP A.R.S. § 3-3433 (A)-(I) Standards for motor fuel; exceptions as adopted July 1, 2016.	<p>The statute was transferred and renumbered by 2015 Ch. 244, §§ 2, effective July 1, 2016. It was then amended by Laws 2016 (1st Reg. Sess.), Ch. 244, 9, effective July 1, 2016, and then amended by Laws 2016 (2nd Reg. Sess.), Ch. 232, § 12, effective July 1, 2016. The 2016 amendments renumbered various sections and updated or deleted outdated references and citations. The changes made to the statute have had no reported effects on the CO and Ozone levels within the state.</p>

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
A.R.S. § 41-2113(B)(4) Violation; classification; jurisdiction	Rescind (remove) SIP A.R.S. § 41-2113(B)(4) Violation; classification; jurisdiction. Approve into the SIP A.R.S. § 3-3473 Violations; classification; jurisdiction, sections (A)(1), (B)(4), and (C) as adopted July 1, 2016.	The statute was transferred and renumbered from A.R.S. § 41-2113 by Laws 2015, Ch. 244, § 2, which was effective as of July 1, 2016. The statute was again amended by Laws 2016 (1st Reg. Sess.), Ch. 244, §16, effective July 1, 2016. The second 2015 amendment, effective July 1, 2016, added “associate” in the first sentence of (A) and the introductory language of (B); in (A), substituted “division” for “department” throughout and substituted “title 41, chapter 6, article 10” for “chapter 6, article 10 of this title” in the third sentence of (A); and made a stylistic change. The statute was last amended by Laws 2016 (2nd Reg. Sess.), Ch. 232, § 20, effective July 1, 2016. The 2016 amendment made stylistic changes. Paragraph (B)(4) was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.R.S. § 41-2115 Civil Penalties	Rescind (remove) SIP Statute A.R.S. § 41-2115 Civil Penalties. Approve into the SIP A.R.S. § 3-3475 Civil Penalties; Hearing as adopted July 1, 2016.	The statute was transferred and renumbered from A.R.S. § 41-2115 by Laws 2015, 1 <sup>st</sup> Reg. Sess., Ch. 244, § 2, effective July 1, 2016. The 2015 amendment in (A), substituted “division” for “department” in the first three sentences and in the third sentence, the revision added “title 41” and deleted “of this title” at the end; added “associate” in the first sentence of (A) and the introductory language of (B); and made a stylistic change. The statute was then amended by Laws 2016 1 <sup>st</sup> Reg. Sess., Ch. 244, 17, effective July 1, 2016 which added the (B) designation; in (B), substituted “an informal or formal” for “a” in the first sentence, added the second sentence, in the third sentence, added “If the person requests a formal hearing or the warning or citation is not resolved in the informal hearing” and then substituted “conduct a formal” for “conduct the” and substituted “subsection C” for “subsection B” in the last sentence; redesignated former (B) and (C) as (C) and (D); and added “pipeline, terminal, fuel transporter” in (C)(5). This statute describes the civil penalties for violations of the CBG program.
A.R.S. § 41-2121 Definitions and A.R.S. § 41-2121(5) Definitions [“Gasoline”] (two versions)	Rescind (remove) SIP Statutes A.R.S. § 41-2121 Definitions and A.R.S. § 41-2121(5) Definitions [“Gasoline”] (all versions).	The statutes entitled “Definitions” were repealed in HB 2480 and codified in Laws 2016 (2nd Reg. Sess.), Ch. 232, § 23, effective August 6, 2016.  ARS 41-2121 were transferred to A.R.S. § 3-3491 in HB 2480 codified in Laws 2015 (1 <sup>st</sup> Reg. Sess.), Ch. 19, § 1 effective in 2015. The statute was then repealed and the definitions were moved to combine with the definitions in ARS 3-3401 under HB 2171 which was codified under Laws 2016, Ch. 232, § 25 effective in 2015. The

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
		definitions that were transferred from A.R.S. § 41-2121 to A.R.S. 3-3401 and then to A.R.S. § 3-3401 are (1), (2), (3), (19), (20), (24),(27), (28), (29), 32), (32), (39), and (40).
A.R.S. § 41-2122 Standards for oxygenated fuel; volatility exceptions	Rescind (remove) SIP statute A.R.S. § 41-2122 Standards for oxygenated fuel; volatility exceptions, Approve into SIP A.R.S. § 3-3491. Standards for oxygenated fuel; volatility; exceptions (version 2) as adopted August 9, 2017.	The statute was transferred and renumbered from A.R.S. § 41-2122 by Laws 2015, Ch. 244, § 2, effective July 1, 2016. The statute was once again transferred and renumbered from A.R.S. § 3-3492 by Laws 2016, (2nd Reg. Sess.), Ch. 232, § 24. The 2016 amendment updated the statute was renumbered from A.R.S. § 3-3492 to A.R.S. § 3-3491 and updated outdated language and references. The statute was again amended by Laws 2017, Ch. 295, § 1, effective August 9, 2017. The 2017 amendment deleted isobutanol from the prohibited oxygenate list, thereby allowing it to be used as an alternative to ethanol.
A.R.S. § 41-2123 Area A; sale of gasoline; oxygen content	Rescind (remove) SIP statute A.R.S. § 41-2123 Area A; sale of gasoline; oxygen content. Approve into SIP A.R.S. § 3-3492 Area A; sale of gasoline; oxygen content as adopted August 9, 2017.	The statute was initially transferred and renumbered from A.R.S. § 41-2123 by Laws 2015, Ch. 244, § 2. It was again transferred and renumbered as A.R.S. § 3-3491, effective July 1, 2016, by Laws 2016, (2nd Reg. Sess.), Ch. 232, § 24.. This statute was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.R.S. § 41-2124 Area A; fuel formulation; rules	Rescind (remove) SIP Statute A.R.S. § 41-2124 Area A; fuel formulation; rules. Approve into the SIP A.R.S. § 3-3493 Area A; fuel reformulation; rules as adopted August 9, 2017.	The statute was transferred and renumbered from A.R.S. § 41-2124 by Laws 2015, Ch. 244, § 2. It was again transferred and renumbered from A.R.S. § 3-3494 to 3-3493 effective June 30, 2016, by Laws 2016. (2nd Reg. Sess.), Ch. 232, § 24. The 2016 amendment updated outdated language and references. It also made stylistic changes. The statute was last amended by Laws 2017 1st Reg. Sess. Ch. 295, § 2, effective August 9, 2017. The 2017 amendment substituted “paragraph 1 or 2” for “paragraph 1’ at the end of (B). This statute was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.R.S. § 41-2125 Area B; sale of gasoline; oxygen content	Rescind (remove) SIP Statute A.R.S. § 41-2125 Area B; sale of gasoline; oxygen content. Approve into SIP A.R.S. § 3-3495 Area B; sale of gasoline; oxygen content as adopted July 1, 2016	The statute was transferred and renumbered from A.R.S. § 41-2125 by Laws 2015, Ch. 244, § 2. It was again transferred and renumbered from 3-3496 by Laws 2016, (2nd Reg. Sess.), Ch. 232, § 24 effective July 1, 2016. Minor stylistic and technical changes were made to update the statute.

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
A.A.C. R20-2-101 Definitions- Administration and Procedure	Rescind (remove) SIP Rule A.A.C. R20-2-101. Approve into the Arizona SIP A.A.C. R3-7-101 as adopted November 10, 2018.	The new Section R3-7-101 was recodified from Section R20-2-101 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and deleted or updated outdated references within the text. It was then amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).
A.A.C. R20-2-701 Definitions- Motor Fuels and Petroleum Products	Rescind (remove) SIP Rule A.A.C. R20-2-701 Definitions. Approve into SIP A.A.C. R3-7-701 Definitions as adopted November 10, 2018.	The new Section R3-7-701 was recodified from Section R20-2-701 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and removed or updated outdated references within the text. It was again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). This amendment removed the ethanol specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491 and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R3-7-702 Materials Incorporated by Reference	Approve into SIP Rule A.A.C. R3-7-702(A)(1) - (13) and (15) Materials Incorporated by Reference as adopted November 10, 2018.	The new Section R3-7-702 recodified from Section R20-2- 702 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). It was again amended by final rulemaking at 24 A.A.R. 2666, which was effective November 10, 2018 (Supp. 18-3) and updated or removed outdated references. This rule lists references approved for use in the CBG program and was submitted as part of the ADEQ 2013 SIP Revision.
A.A.C. R3-7-708 Gasoline Oxygenate Blends	Approve into SIP Rule A.A.C. R3-7-708 Gasoline Oxygenate Blends as adopted October 2, 2017.	The new Section R3-7-108 recodified from Section R20-2- 108 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The rule was amended again by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). This rule was submitted as part of the ADEQ 2013 SIP Revision.
A.A.C. R20-2-716 Sampling and Access to Records	Rescind (remove) SIP Rule A.A.C. A.A.C. R20-2-716 Sampling and Access to Records. Approve into SIP A.A.C. R3-7-716 Sampling and Access to Records as adopted October 2, 2017.	The new Section R3-7-716 was recodified from Section R20-2-716 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The rule was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and removed or updated outdated references. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.



SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
A.A.C. R20-2-749 Definitions Applicable to Arizona CBG and AZRBOB	Approve into SIP A.A.C. R3-7-749 Definitions Applicable to the Arizona CBG and AZRBOB.	The new Section R3-7-749 was recodified from Section R20-2-749 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and removed or updated outdated references within the text. It was again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). This amendment removed the ethanol specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491 and removed isobutanol from the prohibited oxygenate list. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-750 Registration Relating to Arizona CBG or AZRBOB	Rescind (remove) SIP Rule A.A.C. R20-2-750 Registration Relating to Arizona CBG or AZRBOB. Approve into SIP A.A.C. R3-7-750 Registration Relating to Arizona CBG or AZRBOB as adopted October 2, 2017.	The new Section R3-7-750 was recodified from Section R20-2-750 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The rule was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and removed or updated outdated references within the text. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-751 Arizona CBG Requirements	Rescind (remove) SIP Rule A.A.C. R20-2-751 Arizona CBG Requirements. Approve into SIP A.A.C. R3-7-751 Arizona CBG Requirements as adopted November 10, 2018.	The new Section R3-7-751 was recodified from Section R20-2-751 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The rule was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). The 2017 rulemaking removed or modified outdated references within the text and lowered the retail sulfur limit to 95 ppm. It was again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). The 2018 amendment deleted the ethanol specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491 and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-752 General Requirements for Registered Suppliers	Rescind (remove) SIP Rule A.A.C. R20-2-752 General Requirements for Registered Suppliers. Approve into SIP A.A.C. R3-7-752 General Requirements for Registered Suppliers as adopted November 10, 2018.	The new Section R3-7-752 was recodified from Section R20-2-752 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The rule was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and removed or updated outdated references within the text. It was again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). The 2018 amendment deleted the ethanol-specific language, opening the rule to broader application



SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
		following the approval of HB2368, which amended A.R.S. § 3-3491, and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-753 General Requirements for Pipelines and Third-party Terminals	Rescind (remove) SIP Rule A.A.C. R20-2-753 General Requirements for Pipelines and 3rd-party Terminals. Approve into SIP A.A.C. R3-7-753 General Requirements for Pipelines and Third-party Terminals. As adopted on October 2, 2017.	The new Section R3-7-753 was recodified from Section R20-2-753 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), which updated or removed outdated references from the text. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-754 Downstream Blending Exceptions for Transmix	Rescind (remove) SIP Rule A.A.C. R20-2-754 Downstream Blending Exceptions for Transmix. Approve into SIP A.A.C. R3-7-754 Downstream Blending Exceptions for Transmix as adopted October 2, 2017.	The new Section R3-7-754 was recodified from Section R20-2-754 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The rule was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and removed or updated outdated references within the text. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-755 Additional Requirements for AZRBOB and Downstream Oxygenate Blending	Rescind (remove) SIP Rule A.A.C. R20-2-755 Additional Requirements for AZRBOB and Downstream Oxygenate Blending. Approve into SIP A.A.C. R3-7-755 Additional Requirements for AZRBOB and Downstream Oxygenate Blending as adopted November 10, 2018.	The new Section R3-7-755 was recodified from Section R20-2-755 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), which removed or updated outdated references within the text. It was amended again by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). This last amendment deleted the ethanol specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491 and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-756 Downstream Blending of Arizona CBG with	Rescind (remove) SIP Rule A.A.C. R20-2-756 Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks. Approve into SIP A.A.C. R3-7-756	The new Section R3-7-756 was recodified from Section R20-2-756 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), which updated or deleted

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
Nonoxygenate Blendstocks	Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks as adopted October 2, 2017.	outdated references within the text. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-757 Product Transfer Documentation; Records; Retention	Rescind (remove) SIP Rule A.A.C. R20-2-757 Product Transfer Documentation; Records; Retention. Approve into SIP A.A.C. R3-7-757 Product Transfer Documentation; Records; Retention as adopted November 10, 2018.	The new Section R3-7-757 was recodified from Section R20-2-757 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), which updated or deleted outdated references within the text. It was again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). The 2018 amendment deleted the ethanol-specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491, and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-758 Adoption of Fuel Certification Models	Rescind (remove) SIP Rule A.A.C. R3-7-758 Adoption of Fuel Certification Models.	This section was repealed. Section R3-7-758 was recodified as Section R20-2-758 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). However, this rule rescission was submitted as part of the ADEQ 2013 CBG SIP Revision.
A.A.C. R20-2-759 Testing Methodologies	Rescind (remove) SIP Rule A.A.C. R20-2-759 Testing Methodologies. Approve into SIP A.A.C. R3-7-759 Testing Methodologies as adopted November 10, 2018.	The new Section R3-7-759 was recodified from Section R20-2-759 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), which deleted or updated outdated references within the text. The rule was then again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3). The 2018 amendment deleted the ethanol specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491 and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP Revision.

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
A.A.C. R20-2-760 Compliance Surveys	Rescind (remove) SIP Rule A.A.C. R20-2-760 Compliance Surveys. Approve into SIP A.A.C. R3-7-760 Compliance Surveys as adopted October 2, 2017	The new Section R3-7-760 was recodified from Section R20-2-760 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and deleted or updated outdated references within the text.
A.A.C. R20-2-761 Liability for Noncompliant Arizona CBG or AZRBOB	Rescind (remove) SIP Rule A.A.C. R20-2-761 Liability for Noncompliant Arizona CBG or AZRBOB. Approve into SIP A.A.C. R3-7-761 Liability for Noncompliant Arizona CBG or AZRBOB as adopted October 2, 2017.	The new Section R3-7-761 was recodified from Section R20-2-761 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and deleted or updated outdated references within the text.
A.A.C. R20-2-762 (Penalties)	Rescind (remove) SIP Rule A.A.C. R20-2-762 (Penalties). Approve into SIP A.A.C. R3-7-762 Penalties as adopted October 2, 2017.	The new Section R3-7-762 was recodified from Section R20-2-762 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3), and deleted or updated outdated references within the text.
A.A.C. Title 3, Chapter 7, Article 7, Table A. Arizona Weights and Measures Services Division Test Methods for Arizona CBG and AZRBOB.	Approve into SIP A.A.C. Title 3, Chapter 7, Article 7, Table A. Arizona Weights and Measures Services Division Test Methods for Arizona CBG and AZRBOB as adopted October 2, 2017.	The new Article 7, Table A recodified from 20 A.A.C. 2, Article 7, Table A at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). The previous version was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). This table outlines the test methods used in the Arizona CBG program and AZRBOB fuel.
A.A.C. Title 20, Chapter 2, Article 7, Table 1, Type 1 Gasoline Standards	Rescind (remove) SIP Title 20, Chapter 2, Article 7, Table 1 Type 1 Gasoline Standards. Approve into SIP A.A.C. Title 3, Chapter 7, Article 7, Table 1 Type 1 Arizona CBG Standards as adopted November 10, 2018.	The new A.A.C. Title 3, Chapter 7, Article 7, Table 1, was recodified from 20 A.A.C. 2, Article 7, Table 1 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Table 1 was again amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3), which updated or deleted outdated references within the text.

SIP Statute or Rule Number and Title	Requested Action	Justification for the Requested Action
A.A.C. Title 20, Chapter 2, Article 7, Table 2, Type 2 Gasoline Standards	Rescind (remove) SIP Title 20, Chapter 2, Article 7, Table 2 Type 2 Gasoline Standards. Approve into SIP A.A.C. Title 3, Chapter 7, Article 7, Table 2 Type 2 Arizona CBG Standards as adopted November 10, 2018.	The new A.A.C. Title 3, Chapter 7, Article 7, Table 2, was recodified from 20 A.A.C. 2, Article 7, Table 2 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). It was amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Table 2 was amended again by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3), which updated or deleted outdated references within the text. The 2018 amendment deleted the ethanol specific language, opening the rule to broader application following the approval of HB2368, which amended A.R.S. § 3-3491 and removed isobutanol from the prohibited oxygenate list. The rulemaking modified the current rule to include isobutanol. This rule was submitted as part of the ADEQ 2013 CBG SIP revision.
<p>All information regarding statutory amendments was obtained through Arizona Legislative Materials.</p> <p><b>**Not all of the statutes and rules listed in the previous tables were included in this table, this was a deliberate decision on the part of ADEQ. The rules and statutes not included will be submitted as part of a future SIP revision.</b></p>		

## 5.1 Gasoline Emissions from 2011- 2017

Table 8 shows the gasoline emissions in Arizona from 2011 to 2017. The Table was constructed from the State's on-road mobile emissions collected from the 2011, 2014, and 2017 National Emissions Inventory (NEI).<sup>64</sup> The timeframe chosen for the Table was selected based on the NEI information available to ADEQ and because the majority of the rules and statutes discussed in this submission were amended and implemented at the state level between 2011 and 2017. Table 9, relying on the same data used in Table 8, ADEQ calculated and displayed the gasoline emission fluctuations in Arizona from 2011-2017.

Table 8 shows a gradual decline in on-road emissions (i.e., gasoline emissions ); however, ADEQ cannot alone attribute this decrease in emissions to implementing the amended rules and statutes. In addition to the implementation of the amended rules and statutes, the decrease is most

<sup>64</sup> 2011 National Emissions Inventory, EPA (July 2013), <https://www.epa.gov/air-emissions-inventories/2011-national-emissions-inventory-nei-data>; 2014 National Emissions Inventory, EPA (September 30, 2016), <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>; 2017 National Emissions Inventory, EPA (April 2020), <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data>.

likely due to a combination of factors, including but not limited to, economic and political impacts, technology improvements, and fleet turnover.

**Table 8. Arizona Gasoline Emissions From 2011-2017**

*Emissions in Tons Per Year (TPY)	2011	2014	2017
Carbon Monoxide	563392.6	555052	487903.6
Nitrogen Oxides	134015.8	118594.7	82699.25
PM10 Primary (Filterable + Condensable)	7721.376	5717.26	4406.915
Volatile Organic Compounds	51893.18	51948.59	44903.71

Similar to Table 8, Table 9 depicts a gradual decline in emissions between 2011 and 2017. Only the emissions listed for PM10 and Volatile Organic Compounds (VOCs) show a fluctuation over the years, and the fluctuations shown are not unexpected. Area A of the CBG program significantly overlaps with the Phoenix PM10 Serious Nonattainment Area therefore any changes within the nonattainment area that causes PM10 or VOCs (a PM precursor) emissions would naturally be reflected in the fluctuations.

**Table 9. Arizona Gasoline Emissions Fluctuations From 2011-2017**

*Emissions in Tons Per Year (TPY)	% Change 11 to 14	% Change 14 to 17	% Change 11 to 17
Carbon Monoxide	-1.5%	-12.1%	-13.4%
Nitrogen Oxides	-11.5%	-30.3%	-38.3%
PM10 Primary (Filterable + Condensable)	-26.0%	-22.9%	-42.9%
Volatile Organic Compounds	0.1%	-13.6%	-13.5%

## 6 The Current Cleaner Burning Gasoline Program

ADEQ, in partnership with WMSD, submits this SIP revision for approval and incorporation into the Arizona SIP. If EPA approves this submission and the changes discussed in previous sections are incorporated into the Arizona SIP, the State's federally approved CBG program will be reflect the table below.

**Table 10. The CBG Program After EPA Approval**

Statute or Rule	Codification Date
A.R.S. § 3-3401 (Definitions)	July 1, 2016
A.R.S. § 3-3414 (Powers and Duties)	August 3, 2018
A.R.S. § 3-3415 (Enforcement powers of the associate director, agents, and inspectors)	July 1, 2016
A.R.S. § 3-3433 (Standards for motor fuel; exceptions)	July 1, 2016
A.R.S. § 3-3473 (Violations; classification; jurisdiction)	July 1, 2016
A.R.S. § 3-3475 (Civil Penalties)	July 1, 2016
A.R.S. § 3-3491 (Standards for oxygenated fuel; volatility; exceptions)	August 9, 2017
A.R.S. § 3-3492 (Area A; sale of gasoline; oxygen content)	August 9, 2017
A.R.S. § 3-3493 (Area A; fuel reformulation; rules)	August 9, 2017
A.R.S. § 3-3495 (Area B; sale of gasoline; oxygen content)	August 6, 2016
A.A.C. R3-7-101 (Definitions- Administration and Procedure)	November 10, 2018
A.A.C. R3-7-701 (Definitions- Motor Fuels and Petroleum Products)	November 10, 2018
A.A.C. R3-7-716 (Sampling and Access to Records)	November 10, 2018
A.A.C. R3-7-749 (Definitions Applicable to the Arizona CBG and AZRBOB)	November 10, 2018
A.A.C. R3-7-750 (Registration Relating to Arizona CBG or AZRBOB)	October 2, 2017

A.A.C. R3-7-751 (Arizona CBG Requirements)	November 10, 2018
A.A.C. R3-7-752 (General Requirements for Registered Suppliers)	November 10, 2018
A.A.C. R3-7-753 (General Requirements for Pipelines and Third-party Terminals)	October 2, 2017
A.A.C. R3-7-754 (Downstream Blending Exceptions for Transmix)	October 2, 2017
A.A.C. R3-7-755 (Additional Requirements for AZRBOB and Downstream Oxygenate Blending)	November 10, 2018
A.A.C. R3-7-756 (Downstream Blending of Arizona CBG with Non-oxygenate Blendstocks)	October 2, 2017
A.A.C. R3-7-757 (Product Transfer Documentation; Records; Retention)	November 10, 2018
A.A.C. R3-7-759 (Testing Methodologies)	November 10, 2018
A.A.C. R3-7-760 (Compliance Surveys)	October 2, 2017
A.A.C. R3-7-761 (Liability for Noncompliant Arizona CBG or AZRBOB)	October 2, 2017
A.A.C. Table 1, (Type 1 Arizona CBG Standards)	November 10, 2018
Table 2, (Type 2 Arizona CBG Standards)	November 10, 2018
A.A.C. R20-2-901 (Material Incorporated by Reference)**	June 5, 2004
A.A.C. R20-2-902 (Exemptions) **	June 5, 2004
A.A.C. R20-2-903 (Equipment and Installation) **	June 5, 2004
A.A.C. R20-2-904 (Application Requirements and Process for Authority to Construct Plan Approval) **	June 5, 2004
A.A.C. R20-2-905 (Initial Inspection and Testing) **	June 5, 2004
A.A.C. R20-2-907 (Operation) **	October 8, 1998
A.A.C. R20-2-908 (Training and Public Education) **	October 8, 1998
A.A.C. R20-2-909 (Recordkeeping and Reporting) **	October 8, 1998
A.A.C. R20-2-910 (Annual Inspection and Testing) **	June 5, 2004

A.A.C. R20-2-911 (Compliance Inspections) **	June 5, 2004
A.A.C. R20-2-912 (Enforcement) **	June 5, 2004
** These will be updated in the next CBG SIP submission	



*(This page is intentionally blank.)*

## 7 Conclusion

ADEQ, in partnership with WMSD, submits this the *2013-2020 Arizona Cleaner Burning Gasoline Program Update and the Removal of the Gasoline Set-aside Program from the Arizona SIP* for approval and incorporation into the Arizona SIP. The purpose of this submission is twofold.

First, this SIP revision will allow Arizona to adopt isobutanol as an ethanol alternative in fuel. This revision was initiated by the passing of Arizona HB2368 in 2017. However, the House Bill made the acceptance of isobutanol as an Arizona approved oxygenate contingent on EPA approval by July of 2022. Arizona's incorporation of isobutanol, as an EPA approved oxygenate under the substantially similar rule, will not interfere with the anti-backsliding requirements of CAA 110(l). Arizona was able to forgo the traditional 110(l) analysis in this submission because isobutanol has been accepted by EPA as an approved oxygenate by way of the substantially similar rule and the application of existing fuel waivers.

Second, this submission will remove the now-repealed Arizona GSA Program. The never-used thirty-year program was repealed after the passing of SB1200 in 2018. A traditional 110(l) analysis is not necessary for the removal of the Gasoline Set-aside program because, in addition to never having been used, a more appropriate federal program already exists, the federal fuel waiver program.

In addition to requesting that Arizona be able to use isobutanol as an ethanol alternative and removing the Gasoline Set-aside program language from the Arizona SIP, this submission addresses EPA's concerns with the state's *2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program* and updates the entire CBG program in the Arizona SIP (including the 2013-2014 update)<sup>65</sup> All of the changes proposed in this SIP will amend the rules previously approved and integrated into the Arizona SIP and allow the State's CBG Program to incorporate additional oxygenates. Therefore, Arizona requests that this submission revising the Arizona SIP, be approved by EPA and incorporated into the state SIP and that the 2013 and 2014 CBG SIPs are withdrawn from consideration and that this submission be considered in their place.

---

<sup>65</sup> 40 CFR § 52.120.

*(This page is intentionally blank.)*